

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

CAPITOL RECORDS, LLC; CAROLINE	)	No. 07 Civ. 9931 (WHP)
RECORDS, INC.; EMI CHRISTIAN)	
MUSIC GROUP INC.; PRIORITY RECORDS)	
LLC; VIRGIN RECORDS AMERICA, INC.;)	
BEECHWOOD MUSIC CORP.;	)	DECLARATION OF
COLGEMS-EMI MUSIC INC.; EMI APRIL	)	ANDREW H. BART
MUSIC INC.; EMI BLACKWOOD MUSIC;	)	IN SUPPORT OF EMI'S
EMI FULL KEEL MUSIC; EMI GOLDEN	)	OPPOSITION TO MP3TUNES'
TORCH MUSIC CORP.; EMI LONGITUDE	)	MOTION TO DISMISS OR, IN THE
MUSIC; EMI VIRGIN MUSIC, INC.;	)	ALTERNATIVE, TO TRANSFER TO
EMI VIRGIN SONGS, INC.,	)	THE SOUTHERN DISTRICT OF
	)	CALIFORNIA
<i>Plaintiffs,</i>)
v.)	
MP3TUNES, LLC AND MICHAEL)	
ROBERTSON)	
<i>Defendant.</i>)

I, Andrew H. Bart, declare as follows:

1. I am a partner with the law firm of Jenner & Block LLP, and I represent the plaintiffs in this action. The statements made in this declaration are based on my personal knowledge. If called to testify as a witness, I would testify as follows:

2. Attached hereto as Exhibit 1 is a true and correct copy of a September 4, 2007 letter from Steven B. Fabrizio to Emily Richards.

3. Attached hereto as Exhibit 2 is a true and correct copy of a September 18, 2007 letter from Steven B. Fabrizio to Ira S. Sacks.

4. Attached hereto as Exhibit 3 is a true and correct copy of the Amended Complaint for Declaratory Relief filed by MP3Tunes, LLC in the United States District Court for the Southern District of California.

5. Attached hereto as Exhibit 4 is a true and correct copy of a September 21, 2007 letter from Ira S. Sacks to Steven B. Fabrizio.

6. Exhibit 5 has been filed under seal pursuant to the Stipulated Protective Order in the above-captioned action (the “Action”).

7. Exhibit 6 has been filed under seal pursuant to the Stipulated Protective Order in the Action.

8. Exhibit 7 has been filed under seal pursuant to the Stipulated Protective Order in the Action.

9. Exhibit 8 has been filed under seal pursuant to the Stipulated Protective Order in the Action.

10. Exhibit 9 has been filed under seal pursuant to the Stipulated Protective Order in the Action.

11. Exhibit 10 has been filed under seal pursuant to the Stipulated Protective Order in the Action.

12. Attached hereto as Exhibit 11 is a true and correct copy of the Affidavit of Chad Olson, sworn to on January 25, 2008.

13. Attached hereto as Exhibit 12 is a true and correct copy of the Affidavit of Kevin Carmony, sworn to on January 25, 2008.

14. Attached hereto as Exhibit 13 is a true and correct copy of a spreadsheet produced by MP3tunes in this litigation and bearing the bates number D000047-69.

15. Attached hereto as Exhibit 14 is a true and correct copy of a webpage entitled “Michael’s Minutes” dated June 15, 2005 from Michael Robertson’s website made available at www.michaelrobertson.com.

16. Exhibit 15 has been filed under seal pursuant to the Stipulated Protective Order in the Action.

17. Exhibit 16 has been filed under seal pursuant to the Stipulated Protective Order in the Action.

18. Exhibit 17 has been filed under seal pursuant to the Stipulated Protective Order in the Action.

19. Attached hereto as Exhibit 18 is a true and correct copy of Michael Robertson’s redacted itinerary.

20. Exhibit 19 has been filed under seal pursuant to the Stipulated Protective Order in the Action.

21. Attached hereto as Exhibit 20 is a transcript prepared by my law firm of an interview of Michael Robertson at Digital Music Forum East on February 27, 2008, based on an audio recording of that interview made available at www.digitalmusicforum.com/east/media08.shtml.

22. Exhibit 21 has been filed under seal pursuant to the Stipulated Protective Order in the Action.

23. Attached hereto as Exhibit 22 is a true and correct copy of an announcement from the Digital Music Forum East.

24. Attached hereto as Exhibit 23 is a true and correct copy of the Stipulation Regarding MP3Tunes' Revenue From Interstate and International Commerce dated February 11, 2008.

25. Attached hereto as Exhibit 24 is a true and correct copy of a redacted email thread ending in an August 29, 2007 message from Dorothy Sherman to Emily Richards.

26. Attached hereto as Exhibit 25 is a true and correct copy of a redacted email thread ending in a December 8, 2006 message from Doug Reese to Emily Richards.

27. Attached hereto as Exhibit 26 is a true and correct copy of a redacted email thread ending in a December 27, 2007 message from Julian Krause to Emily Richards and others.

28. Attached hereto as Exhibit 27 is a true and correct copy of a redacted email thread ending in a December 27, 2007 message from Julian Krause to Emily Richards and others.

29. Attached hereto as Exhibit 28 is a true and correct copy of a redacted email thread ending in a December 27, 2007 message from Julian Krause to Emily Richards and others.

30. Attached hereto as Exhibit 29 is a true and correct copy of a redacted email thread ending in a December 27, 2007 message from Julian Krause to Emily Richards and others.

31. Attached hereto as Exhibit 30 is a true and correct copy of a September 13, 2007 letter from Ira S. Sacks to Steven B. Fabrizio.

32. Exhibit 31 has been filed under seal pursuant to the Stipulated Protective Order in the Action.

33. Exhibit 32 has been filed under seal pursuant to the Stipulated Protective Order in the Action.

I declare under penalty of perjury under the laws of the United States of America
that the foregoing is true and correct.

Executed on April 18, 2008

Andrew H. Bart
Andrew H. Bart

EXHIBIT 1

JENNER & BLOCK

Jenner & Block LLP Chicago
601 Thirteenth Street, NW Dallas
Suite 1200 South New York
Washington, DC 20005-3823 Washington, DC
Tel 202 639-6000
www.jenner.com

VIA OVERNIGHT MAIL

September 4, 2007

MP3Tunes, LLC
5960 Cornerstone Court
First Floor
San Diego, CA 92121

Steven B. Fabrizio
Tel 202 639-6040
Fax 202 661-4823
sfabrizio@jenner.com

Attn: Emily Richards

Re: EMI Music Group/Infringement of Copyrighted Works

Dear Ms. Richards:

We are counsel for EMI Music Group North America, whose record labels include (but are not limited to) Capitol, Priority, Blue Note, EMI, Virgin, and Astralwerks (collectively, "EMI"). EMI is the owner of copyright, exclusive rights under copyright or related common law and statutory rights, in sound recordings. Among the recordings whose rights are owned by EMI are some of the most popular recordings in the world, including recordings by the Beatles, the Beastie Boys, the Beach Boys, Coldplay, David Bowie, Norah Jones, Lenny Kravitz, Radiohead, the Red Hot Chili Peppers, Tina Turner, and many others.

MP3Tunes, through its websites, MP3Tunes.com and Sideload.com, and its "Oboe Software Suite" (collectively, "MP3Tunes"), among other things, is copying and storing to its servers, indexing, publicly performing, and making available for download hundreds (if not thousands) of our client's copyrighted recordings in violation of the Copyright Act. For example, MP3Tunes.com provides (based on a user's search query) URL links to "source sites" that host unauthorized music files. Through the "Oboe Software Suite" and the "Oboe Sideload Plug-in," which MP3Tunes provides for no charge at MP3Tunes.com and Sideload.com, MP3Tunes' users can click a button MP3Tunes presents beside every link; when they do so, MP3Tunes automatically and instantly copies and "sideloads" the selected music from the source site into the user's Oboe locker on the MP3Tunes.com website (which offers free storage and indexing of the user's "sideloaded" files). Thus, MP3Tunes unlawfully copies, and enables and induces its users to unlawfully copy, countless audio recordings of EMI artists, such as Coldplay's "Clocks" or Radiohead's "Karma Police." All of these unauthorized music files are available for download or immediate playback via the MP3Tunes.com website's proprietary integrated online audio player, and can be further transferred to most portable music devices, or copied to a compact disc. Searches using the names of virtually every other EMI artist returned similar results. However, EMI has not authorized any of its recordings to be copied, distributed, or performed in this manner on or by MP3Tunes or its users.

Emily Richards
September 4, 2007
Page 2

As we are certain that you are aware, the foregoing conduct constitutes copyright infringement under the United States Copyright Act and under laws of other countries, international law, and/or international treaty obligations. For a variety of reasons, MP3Tunes is not protected by any of the "safe-harbors" of the Digital Millennium Copyright Act ("DMCA").

Without waiver of the foregoing position and without conceding that MP3Tunes is entitled to any of the protections of the DMCA, including that it is a "Service Provider," falls within any of the enumerated categories of Section 512(a)-(d), or has effectively complied with any of the requirements contained therein, we are enclosing herewith a CD-ROM containing a spreadsheet identifying, by artist, song title and URL location, a representative sample, pursuant to 17 U.S.C. § 512(c)(3)(A)(ii), of EMI's copyrighted works that are copied, performed, stored, distributed, and made available for download on or by MP3Tunes. We demand that MP3Tunes immediately take the following actions with respect to each work identified in the attached spreadsheet: (1) remove or disable access to the work; (2) notify the MP3Tunes end user or uploader of the infringement(s); and (3) take appropriate action against the account holder pursuant to the MP3Tunes Terms of Use and End User Agreement. Please confirm in writing that you have done so. Additionally, please provide us with a complete accounting of all of the identified EMI recordings that have been copied, performed or distributed by MP3Tunes including the number of times each recording has been accessed by MP3Tunes users.

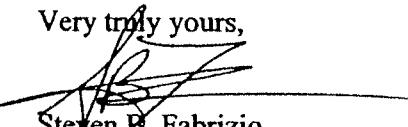
The enclosed representative list reflects only a small portion of the total number of infringing EMI works contained on MP3Tunes. Our initial investigation suggests that hundreds, if not thousands, of additional copies of EMI's copyrighted works are being made available on or by MP3Tunes, with more being copied and made available daily. Accordingly, pursuant to 17 U.S.C. § 512(c)(3)(A)(ii), based on EMI's representative list, MP3Tunes is obligated to remove all of EMI's copyrighted works, even those not specifically identified on the attached. A non-exhaustive further listing of EMI's recording artists can be found at <http://www.emigroup.com/About/Music/Default.htm>. In addition to the foregoing, we demand that MP3Tunes immediately take any and all appropriate action to ensure that each and every one of the works identified in the attached spreadsheet, and all other EMI copyrighted recordings, remain unavailable on or through MP3tunes.

The information in this notification is accurate and we have a good faith belief that use of the material in the manner complained of is not authorized by EMI, its respective agents, or the law. I further hereby state, under penalty of perjury, that we are authorized to act on behalf of EMI as set forth in this letter.

Emily Richards
September 4, 2007
Page 3

Your immediate attention to this letter is required. Nothing herein is intended to or shall be construed as a waiver of any of EMI's rights and remedies, all of which hereby are expressly reserved.

Very truly yours,


Steven D. Fabrizio

Enclosure

cc: Alasdair McMullan, Esq.
Scott Schreiber, Esq.
EMI Music North America

EXHIBIT 2

JENNER & BLOCK

September 18, 2007

**VIA ELECTRONIC MAIL
AND U.S. MAIL**

Ira S. Sacks, Esq.
Dreier LLP
499 Park Avenue
New York, NY 10022

Jenner & Block LLP	Chicago
601 Thirteenth Street, NW	Dallas
Suite 1200 South	New York
Washington, DC 20005-3823	Washington, DC
Tel 202 639-6000	
www.jenner.com	

Steven B. Fabrizio
Tel 202 639-6040
Fax 202 661-4823
sfabrizio@jenner.com

Re: MP3tunes Infringement of EMI Works

Dear Ira:

Thank you for your letter of September 13, 2007. It is not our intention to engage in an extended exchange of letters. However, because your client appears to fundamentally misunderstand the DMCA, in an effort to avoid litigation born of misunderstanding, we offer the four observations set forth below. Beyond that, we invite MP3tunes to make a substantive proposal both to redress past infringement of EMI works and to ensure that there will be no future infringement of EMI works. When Michael Robertson and I spoke last week, it was my impression that MP3tunes would be making such a proposal. If MP3tunes does not intend to make a meaningful proposal to resolve this matter, kindly let us know and we will proceed accordingly.

As for the substance of your September 13 letter:

- First, respectfully, you are simply wrong in your interpretation of the DMCA. While you correctly recite the text of § 512(c)(3), you completely ignore § 512(d), which addresses information location tools. To the extent MP3tunes can take advantage of the DMCA at all, it must respond to notices compliant under § 512(d). As you undoubtedly know, § 512(d)(3) expressly modifies § 512(c)(3)(A)(iii) on the very issue of alleged non-compliance you raise in your letter. In relevant part, § 512(d)(3) provides that for purposes of § 512(d):

the information described in subsection (c)(3)(A)(iii) shall be identification of the ***reference or link***, to material or activity claimed to be infringing, that is to be removed or access to which is to be disabled, and information reasonably sufficient to permit the service provider to locate that ***reference or link***.

17 U.S.C. § 512(d)(3) (emphasis added); *see also* S.R. Rep. No. 105-190, at 47-48 (1998) ("The reference to 'infringing activity' is intended to refer to wrongful activity that is occurring at the

Ira S. Sacks, Esq.
 September 18, 2007
 Page 2

location to which the link or reference refers ... [and] the information submitted by the complaining party under subsection (c)(3)(A)(iii) is identification of the reference or link to infringing material or activity"). Accordingly, our notice is absolutely compliant with the DMCA in all respects.

- Second, we agree with the acknowledgement in your September 13 letter, at page 3, that we have "correctly supplied a representative list of multiple copyrighted works located on a single site in [our] notification as per 17 U.S.C. § 512(c)(A)(ii)." MP3tunes, however, does not appear to grasp the legal implications of that. The DMCA does not provide "safe harbor" just because a service provider responds to a notification by blocking access to the specifically identified works on a representative list. The statutory text and the legislative history make crystal clear that, once a copyright holder has provided a compliant "representative list" of its works, the obligation shifts to the service provider to remove or disable access to *all* copyrighted works owned by that copyright holder. The pertinent legislative history is as follows:

Where multiple works at a single online site are covered by a single notification, *a representative list of such works at that site is sufficient*. Thus, where a party is operating an unauthorized Internet jukebox from a particular site, it is not necessary for a compliant notification to list every musical composition or sound recording that has been or could be infringed at that site, so long as a representative list of those compositions or recordings is provided so that the service provider *can understand the nature and scope of the infringement being claimed*.

S.R. Rep. No. 105-190, at 46 (emphasis added); H.R. Rep. No. 105-551, at 55 (1998) (same); *see also, e.g., ALS Scan, Inc. v. Remarq Communities, Inc.*, 239 F.3d 619, 625 (4th Cir. 2001) (DMCA safe harbor "is not presumptive, but granted only to 'innocent' service providers who can prove they do not have actual or constructive knowledge of the infringement"; eligibility for safe harbor "disappears at the moment the service provider loses its innocence, i.e., at the moment it becomes aware that a third party is using its system to infringe"). Therefore, MP3tunes' commitment to remove the specific links identified on our representative list is not an act of compliance, but rather an acknowledgement of non-compliance. EMI has provided more than sufficient notice such that MP3tunes can understand the nature and scope of the infringement being claimed. If MP3tunes wants any argument as to compliance with § 512(d)(3), it must act accordingly. As observed below, it has not.

- Third, as of this morning, countless EMI works, including works that were identified in our notice, and the works of EMI artists who were identified in the notice, continue to be infringed by and through MP3tunes. MP3tunes is liable for each of these infringements.

- Fourth, many in your client's position conveniently view the DMCA as providing safe harbor as long as copyright infringement notices are appropriately responded to. That is not correct. Whether or not notices are sent to or responded to by a service provider, the DMCA

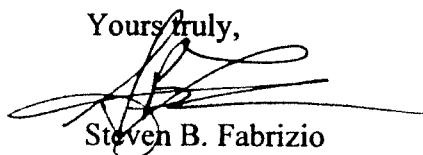
Ira S. Sacks, Esq.
 September 18, 2007
 Page 3

disqualifies a service provider from all safe harbor if that service provider *either*: (i) has “actual knowledge that the material or activity is infringing,” 17 U.S.C. § 512(d)(1)(A); *or* (ii) is “aware of facts or circumstances from which infringing activity is apparent,” 17 U.S.C. § 512(d)(1)(B); *or* (iii) “receive[s] a financial benefit directly attributable to the infringing activity, in a case in which the service provider has the right and ability to control such activity,” 17 U.S.C. § 512(d)(2). Separate and apart from its failure to comply with EMI’s notice, MP3tunes would be disqualified from DMCA safe harbor based on *each* of these provisions. Moreover, in addition to EMI works that are protected under the federal copyright laws, MP3tunes infringes and is responsible for the infringement of innumerable EMI works that were first fixed prior to February 1972 (“pre-72 works”) and which are protected under state law. *E.g., Capitol Records, Inc. v. Naxos of America, Inc.*, 4 N.Y.3d 540, 830 N.E.2d 250 (N.Y. 2005). As the DMCA is a provision of the United States Copyright Act, it provides no conceivable protection for MP3tunes’ infringement of EMI’s pre-72 works.

“The complex marvels of cyberspatial communications may create difficult legal issues; but not in this case.” *UMG Recordings, Inc. v. MP3.com, Inc.*, 92 F. Supp. 2d 349, 350 (S.D.N.Y 2000) (Rakoff, J.). Judge Rakoff’s comment is equally applicable here. MP3tunes is building a business by leveraging the popularity of creative works that MP3tunes did not create and does not own. It will be held liable for copyright infringement under federal and state laws.

If MP3tunes has made an informed decision to litigate the issue of its copyright liability, so be it. If, on the other hand, MP3tunes has a meaningful proposal to make for an overall resolution, the time to make it is now.

Finally, EMI is compelled to expressly reserve all of its rights with respect to the conflict of interest your firm, Dreier LLP, has in representing MP3tunes in a matter adverse to EMI. Dreier LLP *currently* is representing EMI’s affiliate, Caroline Records, Inc., in an ongoing litigation in the New York State Supreme Court captioned *Caroline Records v. Jetset*. The rules of professional conduct governing lawyers practicing in New York prohibit Dreier LLP from acting adverse to its EMI client absent receiving an express waiver from EMI, which Dreier LLP has neither sought nor received.

Yours truly,

 Steven B. Fabrizio

cc: Alasdair McMullan, Esq.
 Scott Schreiber, Esq.
EMI Music North America

Andrew H. Bart, Esq.
 Thomas J. Perrelli, Esq.
Jenner & Block LLP

EXHIBIT 3

Case 3:07-cv-01844-WQH-NLS Document 17 Filed 12/03/2007 Page 1 of 17

1 Edward M. Cramp (SBN 212490)
2 Michelle Hon (SBN 234492)
2 DUANE MORRIS LLP
3 101 West Broadway, Suite 900
4 San Diego, CA 92101
Telephone: 619.744.2200
4 Facsimile: 619.744.2201
5 E-Mail: emcramp@duanemorris.com
mhon@duanemorris.com

6 | Attorneys for Plaintiff MP3TUNES, LLC

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

11 MP3TUNES, LLC,)
12 Plaintiff,) Case No.: 07CV1844WQH (NLS)
13 v.)
14 EMI GROUP, LTD; EMI GROUP NORTH) AMENDED COMPLAINT FOR
15 AMERICA, INC.; EMI GROUP NORTH) DECLARATORY JUDGMENT AND
16 AMERICA HOLDINGS, INC.; and EMI MUSIC) VIOLATION OF THE DIGITAL
17 NORTH AMERICA, LLC; CAPITOL RECORDS,) MILLENNIUM COPYRIGHT ACT;
18 INC.; CAROLINE RECORDS, INC.; EMI) VIOLATION OF CALIFORNIA
19 CHRISTIAN MUSIC GROUP INC.; PRIORITY) BUSINESS AND PROFESSIONS CODE
20 RECORDS LLC; VIRGIN RECORDS AMERICA,) SECTION 17200; DEMAND FOR JURY
21 INC.; BEECHWOOD MUSIC CORP.; COLGEMS-) TRIAL
EMI MUSIC INC.; EMI APRIL MUSIC INC.; EMI)
BLACKWOOD MUSIC; EMI FULL KEEL)
MUSIC; EMI GOLDEN TORCH MUSIC CORP;)
EMI LONGITUDE MUSIC; EMI VIRGIN MUSIC,)
INC.; EMI VIRGIN SONGS, INC.,)
Defendants.)
)

23 Plaintiff MP3tunes, LLC (“Plaintiff”), by its attorneys, Duane Morris LLP, alleges on
24 knowledge as to its own acts and otherwise upon information and belief as follows:

NATURE OF THE ACTION

26 1. As set forth in more detail below, Plaintiff MP3tunes, LLC ("MP3tunes") owns and
27 operates MP3tunes.com and Sideload.com (collectively, the "Sites") and offers Oboe lockers and
28 software to users of the Sites.

1 2. MP3tunes.com is a music service provider and the home of Oboe, a personal music
2 locker offering unlimited online storage. Oboe users can sync their personal music collections to
3 enjoy their music through any web browser, as well as through a growing number of home
4 entertainment and mobile devices.

5 3. Sideload.com is a website owned and operated by MP3tunes that aggregates popular
6 free music tracks on the web chosen and posted by users of Sideload.com and/or Oboe.

7 4. MP3tunes feels justifiably threatened that it will be sued by Defendants as a result of
8 the foregoing websites and software because Plaintiff received three threatening – albeit deficient –
9 cease-and-desist letters from Defendants' counsel, dated September 4, 2007, September 18, 2007,
10 and October 25, 2007 (collectively, the "Notice") and because Plaintiff was informed by
11 Defendants' counsel that the matter would not be resolved without litigation unless there was a
12 substantial monetary payment by Plaintiff.

13 5. By this action, MP3tunes seeks a declaration that (i) MP3tunes.com and
14 Sideload.com are service providers as defined in the Digital Millennium Copyright Act ("DMCA"),
15 17 U.S.C. § 512(k); (ii) the conduct by MP3tunes.com and Sideload.com challenged by Defendants
16 in the Notice falls within the protections of §§ 512(a), (b), (c) and/or (d); (iii) the Notice served on
17 Plaintiff was deficient under 17 U.S.C. §§ 512(c) and/or (d); (iv) to the extent the Notice was not
18 deficient, Plaintiff complied with its obligations under 17 U.S.C. §§ 512(c) and/or (d); and (v) the
19 activities of Sideload.com, MP3tunes.com and Oboe complained of by Defendants in the Notice do
20 not constitute direct copyright infringement, contributory copyright infringement and/or inducement
21 of copyright infringement.

22 6. MP3tunes further seeks: (i) an order from the Court pursuant to California Business
23 and Professions Code §17200, et seq., enjoining the defendants from engaging in their unfair,
24 unlawful, and deceptive business act or practice of intentionally sending defective Notice under the
25 DMCA in order to further their business interests; (ii) an order from the Court requiring Defendants
26 to disgorge any profits that they have made as a result of their wrongful conduct; and (iii) an award
27 of attorney's fees and costs.

Case 3:07-cv-01844-WQH-NLS Document 17 Filed 12/03/2007 Page 3 of 17

PARTIES

7. Plaintiff MP3tunes, LLC is a Delaware limited liability company with its principal place of business in San Diego, California.

8. Defendant EMI Group, LTD ("EMI LTD") is headquartered in London, England. EMI operates in the United States through its division, EMI Music Group North America, as well as subsidiaries EMI Group North America, Inc., EMI Group North America Holdings Inc. and EMI Music North America, LLC, among others. The record labels EMI purports to represent in the United States include the co-defendants listed in paragraphs 9 through 25 below.

9. Defendant EMI Group North America, Inc. ("EMI NA Inc.") is a Delaware corporation with its principal place of business in New York, New York, and transacts business in this district.

10. Defendant EMI Group North America Holdings Inc. (“EMI Holdings”) is a Delaware corporation with its principal place of business in New York, New York, and transacts business in this district.

11. Defendant EMI Music North America, LLC ("EMI Music") is a Delaware limited liability company with its principal place of business in New York, New York, and transacts business in this district.

12. Defendant Capitol Records, Inc. is a Delaware corporation, with its principal place of business in New York, New York.

13. Defendant Caroline Records, Inc. is a New York corporation, with its principal place of business in New York, New York.

14. Defendant EMI Christian Music Group, Inc. is a California corporation, with its principal place of business in Brentwood, Tennessee.

15. Defendant Priority Records LLC is a Delaware limited liability company with its principal place of business in New York, New York.

16. Defendant Virgin Records America, Inc. is a California corporation, with its principal place of business in New York, New York.

17. Defendant Beechwood Music Corporation is a California corporation, with its

1 principal place of business in New York, New York.

2 18. Defendant Colgems-EMI Music Inc. is a Delaware corporation, with its principal
3 place of business in New York, New York.

4 19. Defendant EMI April Music Inc. is a Connecticut corporation, with its principal place
5 of business in New York, New York.

6 20. Defendant EMI Blackwood Music is a Connecticut corporation, with its principal
7 place of business in New York, New York.

8 21. Defendant EMI Full Keel Music is a duly organized corporation, with its principal
9 place of business in New York, New York.

10 22. Defendant Golden Torch Music Corp. is a New York corporation, with its principal
11 place of business in New York, New York.

12 23. Defendant EMI Longitude Music is a duly organized corporation, with its principal
13 place of business in New York, New York.

14 24. Defendant EMI Virgin Music, Inc. is a New York corporation, with its principal place
15 of business in New York, New York.

16 25. Defendant EMI Virgin Songs, Inc. is a New York corporation, with its principal place
17 of business in New York, New York.

18 26. Defendants are collectively referred to herein as "EMI" or "Defendants."

19 **JURISDICTION AND VENUE**

20 27. This is an action for declaratory judgment pursuant to 28 U.S.C. § 2201 and Rule 57
21 of the Federal Rules of Civil Procedure seeking a declaration of rights and/or other legal relations of
22 the parties to this litigation with respect to a substantial controversy arising under the copyright laws
23 of the United States, 17 U.S.C. § 101 *et seq.* This action further seeks injunctive relief under
24 California Business and Professions Code section 17200, et seq., prohibiting defendants from
25 engaging in unfair, illegal, and deceptive business acts and practices.

26 28. This Court has jurisdiction over the subject matter of this action pursuant to the
27 Copyright Act (17 U.S.C. § 101 *et seq.*); 28 U.S.C. §§ 1331, 1338; the Declaratory Judgment Act
28 (28 U.S.C. § 2201); and 28 U.S.C. §1367.

29. Venue is proper in this district pursuant to 28 U.S.C. §§ 1391 and 1400(a) because
Defendants transact business in this district. Moreover, Plaintiff resides in this district and/or the
acts complained of herein have had, and will have, substantial effects in this district.

THE BUSINESS OF MP3TUNES

30. Plaintiff MP3tunes, LLC owns and operates MP3tunes.com and Sideload.com.

31. MP3tunes.com is a music service provider and the home of Oboe, a personal music locker offering unlimited online storage. Oboe users can sync their personal music collections to enjoy them through any web browser, as well as through a growing number of home entertainment and mobile devices.

32. MP3tunes.com does not control or select the songs in an individual consumer's locker and instead merely provides online storage space for such music. Consumers can organize, add and delete songs as they choose. While MP3tunes.com can identify the songs in a consumer's locker, it has no means of determining where the track came from (*i.e.* from another website, from a CD that the user owns or elsewhere). Only the individual consumer can access his or her own particular songs from the consumer's locker.

33. Sideload.com is a website owned and operated by Plaintiff that aggregates popular free music tracks on the web designated by users of the Sites. The songs listed on Sideload.com are designated and posted by users of the Sites. Consumers can also listen to songs on Sideload.com and “sideload” those tracks into their personal lockers, onto their hard drives or elsewhere. Plaintiff plays no role in which songs are designated for Sideload.com by users of the Sites. None of the songs designated by users for sideloading or listening are physically available on Sideload.com. Rather, what is provided is a hyperlink.

34. Until Plaintiff's recent receipt of Defendants' Notice (discussed below), Plaintiff believed that all of the songs on Sideload.com and in the consumer's personal lockers were non-infringing songs. Before using Sideload.com and MP3tunes.com, consumers must agree to the Terms of Use set forth on both websites, which states that the user "acknowledge[s] that by uploading music or any other content to the Site, or requesting that music or any content be uploaded to [the user's] account maintained on the Site, that [the user is] directing [Plaintiff] to store the file in

1 the format in which it is uploaded and to convert and store it in the MP3 format, or such other format
 2 in which it may be converted by [Plaintiff]. [The user] agree[s] that [he/she] will not upload music
 3 and content, and will not request that any music or content be uploaded to [her/her] account
 4 maintained on the Site, that infringes the copyright or other intellectual property rights of any third
 5 party."

6 35. The Terms of Use states further that "[u]nder the appropriate circumstances, it is
 7 Plaintiff's policy to remove and/or to disable access from MP3tunes to web pages of repeat
 8 infringers, to terminate subscribers and account holders who are repeat infringers, and to remove
 9 and/or to disable access from MP3tunes to web pages as to which there have been steps taken for the
 10 purpose of affecting MP3tunes's search results such as adding inappropriate 'meta-tags.'"

11 36. Thus, until recently, Plaintiff believed that all of the songs on Sideload.com and in the
 12 consumer's personal lockers were non-infringing songs. Indeed, Plaintiff still believes that the songs
 13 currently in the consumer's personal lockers are non-infringing and Plaintiff has no basis to believe,
 14 and no means of determining, otherwise.

15 37. For the reasons set forth below, MP3tunes cannot continue to operate MP3tunes.com,
 16 Sideload.com and the Oboe lockers without fear of crippling litigation until this action is resolved.

DEFENDANTS' ACTIONS

18 38. On September 4, 2007, September 18, 2007, and October 25, 2007, Defendants,
 19 through their counsel, sent Notice, which was deficient under the DMCA, to Plaintiff alleging that
 20 Plaintiff, through its websites MP3tunes.com and Sideload.com and its "Oboe Software Suite" "is
 21 copying and storing to its servers, indexing, publicly performing, and making available for download
 22 hundreds (if not thousands) of [Defendants'] copyrighted recordings in violation of the Copyright
 23 Act." A true and correct copy of the Notice is attached hereto as Exhibit A.

24 39. The Notice is deficient for a number of reasons. First, it fails to identify the party
 25 represented by Jenner & Block LLP sending the Notice. To the contrary, the Notice identifies only
 26 divisions of Defendants, but not legal entities. To date, the EMI entity that served the deficient
 27 Notice is unknown.

28 40. Second, the Notice falsely states that "[f]or a variety of reasons, MP3[t]unes is not

1 protected by any of the ‘safe-harbors’ of the Digital Millennium Copyright Act (‘DMCA’). To the
 2 contrary, MP3tunes.com and Sideload.com are service providers as defined in 17 U.S.C. § 512(k)
 3 and their conduct falls within the enumerated categories of §§ 512(a), (b), (c) and/or (d).

4 41. Third, with the exception of approximately 350 songs about which Defendants
 5 properly notified Plaintiff pursuant to 17 U.S.C. § 512(c)(3)(A)(ii) by enclosing a CD-ROM listing
 6 the songs and website locations which Defendants alleged infringed the copyrights of EMI and/or
 7 parties it allegedly represents, the remainder of the Notice was deficient. As to the songs that
 8 Defendants properly identified on the list enclosed with the Notice, those songs were immediately
 9 removed from Sideload.com and Defendants were promptly notified of this.

10 42. However, the Notice stated further that the “enclosed representative list reflects only
 11 a small portion of the total number of infringing EMI works contained on MP3[t]unes, with more
 12 being copied and made available daily. Accordingly, pursuant to 17 U.S.C. § 512(c)(3)(A)(ii), based
 13 on EMI’s representative list, MP3[t]unes is obligated to remove all of EMI’s copyrighted works,
 14 even those not specifically identified on the attached. A non-exhaustive further listing of EMI’s
 15 recording artists can be found at <http://www.emigroup.com/About/Music/Default.htm>. ”

16 43. This notification was inadequate under the DMCA. The Notice did not specifically
 17 identify the material that is to be removed or access to which is to be disabled as required by 17
 18 U.S.C. § 512(c)(3)(A)(iii).

19 44. Moreover, some of the artists on Defendants’ list and/or on Defendants’ website are
 20 no longer represented by EMI; and some songs listed on the enclosure to the Notice are freely
 21 available for digital download. For example, the first band that is listed in Defendants’ spreadsheet
 22 is “Air”. MP3tunes features an “Air” track – “Once Upon A Time” – on the first page of
 23 sideload.com. That track is from the popular online music magazine, *Filter*, and is accessed by the
 24 URL <http://filter-mag.com/index.php?id=13977&c=6>. Thus, Plaintiff has no reason to believe that
 25 the *Filter* track is anything but lawful. Nevertheless, Plaintiff removed this track from availability
 26 for sideloading as per Defendants’ demand.

27 45. Similarly, Defendants’ list also includes the track “Nobody Move, Nobody Get Hurt”
 28 by the band “We Are Scientists” from the URL http://media.spin.com/features/band_of_the_day/

1 audio/2005/11/nobody_move_nobody_get_hurt_hi.mp3. *Spin* is a popular online music magazine.
2 All the labels distribute MP3s promotionally. Plaintiff believes that it is likely that this track is such
3 a promotional distribution and is lawfully available. The same is true for the tracks that Defendants
4 list from the *Paste Store*, which is a store which often distributes promotional tracks provided to
5 them. Nevertheless, Plaintiff removed these tracks from availability for sideloading as per
6 Defendants' demand.

7 46. Defendants knowingly materially misrepresented that certain material on the Sites —
8 such as the aforementioned material — was infringing in violation of 17 U.S.C. § 512(f)(1) when it
9 was not.

10 47. By sending the Notice, Defendants engaged in an unfair, deceptive, or illegal business
11 act or practice in that they were aware that their conduct violated 17 U.S.C. § 512(f). Defendants
12 routinely illegally engage in such practices to illegally and unfairly further their business interests.
13 Defendants will not stop these illegal practices unless and until they are enjoined by the Court.

14 48. Defendants' Notice was only directed towards tracks on Sideload.com, although it
15 sought relief with respect to Oboe and consumers' lockers on MP3tunes.com. The list enclosed with
16 the Notice only specified allegedly infringing tracks that could be removed from Sideload.com and
17 did not specify any possible infringements within individual consumers' lockers.

18 49. The Sites are fully protected by the DMCA.

19 50. In connection with the transmitting, routing, or providing connections for, material
20 through the Sites controlled by Plaintiff, or by reason of the intermediate and transient storage of that
21 material in the course of such transmitting, routing or providing connections, the transmission of the
22 material found on the Sites is not initiated by or at the direction of Plaintiff and instead is initiated at
23 the direction of the user.

24 51. In connection with the transmitting, routing, or providing connections for, material
25 through the Sites controlled by Plaintiff, or by reason of the intermediate and transient storage of that
26 material in the course of such transmitting, routing or providing connections, the transmission,
27 routing, provision of connections, or storage of the material found on the Sites is carried out through
28 an automatic technical process without selection of the material by Plaintiff.

1 52. In connection with the transmitting, routing, or providing connections for, material
2 through the Sites controlled by Plaintiff, or by reason of the intermediate and transient storage of that
3 material in the course of such transmitting, routing or providing connections, Plaintiff does not select
4 the recipients of the material on its Sites, except as an automatic response to the request of another
5 person.

6 53. In connection with the transmitting, routing, or providing connections for, material
7 through the Sites controlled by Plaintiff, or by reason of the intermediate and transient storage of that
8 material in the course of such transmitting, routing or providing connections, no copy of the material
9 made by Plaintiff in the course of its intermediate and transient storage of the material on its Sites is
10 maintained on the system or network in a manner ordinarily accessible to anyone other than the
11 anticipated recipients, and no such copy is maintained on the system or network in a manner
12 ordinarily accessible to such anticipated recipients for a longer period than is reasonably necessary
13 for the transmission, routing, or provision of connections.

14 54. In connection with the transmitting, routing, or providing connections for, material
15 through the Sites controlled by Plaintiff, or by reason of the intermediate and transient storage of that
16 material in the course of such transmitting, routing or providing connections, the material on
17 Plaintiff's Sites is transmitted through the system or network without modification of its content.

18 55. In connection with the transmitting, routing, or providing connections for, material
19 through the Sites controlled by Plaintiff, or by reason of the intermediate and transient storage of that
20 material in the course of such transmitting, routing or providing connections, the material on
21 Plaintiff's Sites is made available online by a person or website other than Plaintiff's Sites.

22 56. The intermediate and temporary storage of the material on the Sites is transmitted
23 from a person or website other than Plaintiff through the system or network to a user at the direction
24 of the user.

25 57. The intermediate and temporary storage of the material on the Sites is carried out
26 through an automatic technical process for the purpose of making the material available to users of
27 the system or network who, after the material is transmitted as described above, request access to the
28 material from the person described above.

1 58. The intermediate and temporary storage of the material on the Sites is transmitted to
2 the subsequent users without modification to its content from the manner in which the material was
3 transmitted from the person or website described above.

4 59. When Plaintiff learns the person or website set forth above has made material
5 available online without the authorization of the copyright owner of the material, Plaintiff responds
6 expeditiously to remove, or disable access to, the material that is claimed to be infringing upon
7 notification of claimed infringement.

8 60. Before receiving the Notice, Plaintiff did not have actual knowledge that the material
9 posted and/or stored on the Sites at the direction of users was infringing.

10 61. Plaintiff does not now have actual knowledge that the material posted and/or stored
11 on the Sites at the direction of users was infringing.

12 62. Before receiving the Notice, Plaintiff was not aware of facts or circumstances relating
13 to the material posted and/or stored on the Sites at the direction of users from which infringing
14 activity is apparent.

15 63. Plaintiff is not now aware of facts or circumstances relating to the material posted
16 and/or stored on the Sites at the direction of users from which infringing activity is apparent.

17 64. Upon obtaining knowledge or awareness that the material posted and/or stored on the
18 Sites at the direction of users is infringing, Plaintiff acts expeditiously to remove, or disable access
19 to, the allegedly infringing material and did so in this instance.

20 65. Plaintiff does not receive a financial benefit directly attributable to the material posted
21 and/or stored on the Sites at the direction of users and Plaintiff does not have the right and ability to
22 control such activity, other than to terminate the user's ability to use the Sites.

23 66. Upon notification of claimed infringement as described in 17 U.S.C. § 512(c)(3) as to
24 the material posted and/or stored on the Sites at the direction of users, Plaintiff responds
25 expeditiously to remove, or disable access to, the material that is claimed to be infringing or to be the
26 subject of infringing activity and has done so in this instance.

27 67. Plaintiff has designated an agent to receive notifications of claimed infringement
28 described in 17 U.S.C. § 512(c)(3).

1 68. When Plaintiff receives a notification that includes substantially the following it
2 expeditiously complies with its obligations under the DMCA: (i) A physical or electronic signature
3 of a person authorized to act on behalf of the owner of an exclusive right that is allegedly infringed;
4 (ii) identification of the copyrighted work claimed to have been infringed, or, if multiple copyrighted
5 works at a single online site are covered by a single notification, a representative list of such works
6 at that site; (iii) identification of the material that is claimed to be infringing or to be the subject of
7 infringing activity and that is to be removed or access to which is to be disabled, and information
8 reasonably sufficient to permit the service provider to locate the material; (iv) information
9 reasonably sufficient to permit the service provider to contact the complaining party, such as an
10 address, telephone number, and, if available, an electronic mail address at which the complaining
11 party may be contacted; (v) a statement that the complaining party has a good faith belief that use of
12 the material in the manner complained of is not authorized by the copyright owner, its agent, or the
13 law; and (vi) a statement that the information in the notification is accurate, and under penalty of
14 perjury, that the complaining party is authorized to act on behalf of the owner of an exclusive right
15 that is allegedly infringed.

16 69. Plaintiff does not now have actual knowledge that the Sites link users to online
17 locations containing infringing material or activity and did not have such knowledge before
18 receiving the Notice. When Plaintiff has such knowledge, Plaintiff acts expeditiously to remove, or
19 disable access to, the material and did so in this instance.

20 70. Plaintiff is not now aware of facts or circumstances from which it is apparent that the
21 Sites link users to online locations containing infringing material or activity and was not aware of
22 such facts or circumstances before receiving the Notice. When Plaintiff becomes aware of such facts
23 or circumstances, Plaintiff acts expeditiously to remove, or disable access to, the material and did so
24 in this instance.

25 71. Plaintiff does not receive a financial benefit directly attributable to any link to online
26 locations containing infringing material and Plaintiff does not have the right and ability to control
27 such activity absent the overbroad termination of the user's ability to use the Sites.

28 72. Upon notification of claimed infringement as described in 17 U.S.C. § 512(c)(3) as to

1 any links the Sites have to online locations containing infringing material, Plaintiff responds
2 expeditiously to remove, or disable access to, the material that is claimed to be infringing or to be the
3 subject of infringing activity and has done so in this instance.

4 73. Plaintiff is an entity offering the transmission, routing, or providing of connections
5 for digital online communications, between or among points specified by a user, of material of the
6 user's choosing, without modification to the content of the material as sent or received and/or a
7 provider of online services or network access, or the operator of facilities therefor.

8 74. Plaintiff did not and does not (1) directly infringe Defendants' copyrights; (2) have
9 knowledge of any infringement of Defendants' copyrights; or (3) make a material contribution to
10 any infringement of Defendants' copyrights.

11 75. Plaintiff did not and does not set up its Sites with the intent to encourage copyright
12 infringement.

13 76. After receiving the Notice, despite its deficiencies, Plaintiff contacted Defendants'
14 counsel and was informed that the matter was unlikely to be settled absent a substantial monetary
15 payment.

16 77. In response to the Notice, on September 13, 2007, Plaintiff's counsel responded by:
17 (i) notifying Defendants that its Notice was deficient (ii) notifying Defendants that the
18 approximately 350 songs about which Defendants properly notified Plaintiff about had been
19 removed from Sideload.com; and (iii) requesting that Defendants send a list of additional tracks to
20 which EMI (and the labels it purports to represent) own the copyrights, provide information
21 reasonably sufficient to permit Plaintiff to locate the material, and accurately represent that the listed
22 tracks are not legally digitally available for copying (along with the remaining required elements of
23 17 U.S.C. § 512(c)(3)(A)), so that Plaintiff could disable those songs from sideloading as well. A
24 true and correct copy of this letter is attached hereto as Exhibit B.

25 78. On September 18, 2007, in response to the aforementioned letter, Defendants'
26 counsel responded by claiming that Plaintiff's interpretation of the DMCA was wrong and that if
27 "MP3tunes has made an informed decision to litigate the issue of its copyright liability, so be it."
28 See Exhibit A.

Case 3:07-cv-01844-WQH-NLS Document 17 Filed 12/03/07 Page 13 of 17

1 79. As a result, there exists a substantial controversy between Plaintiff and Defendants as
2 to whether Plaintiff's activities on MP3tunes.com, Sideload.com and Oboe will subject it to liability
3 to Defendants for copyright infringement.

FIRST CLAIM FOR RELIEF
(DECLARATORY JUDGMENT)

6 80. MP3tunes repeats and realleges paragraphs 1 through 73 above, as if fully set forth
7 herein.

8 81. Declaratory relief is warranted because the facts herein show that there is a
9 substantial controversy between parties having adverse legal interests, of sufficient immediacy and
10 reality to warrant relief. Specifically, there exists a substantial controversy between Plaintiff and
11 Defendants as to whether Plaintiff's activities constitute direct or indirect copyright infringement.

12 82. Accordingly, Plaintiff seeks a declaratory judgment pursuant to 28 U.S.C. § 2201 and
13 Rule 57 of the Federal Rules of Civil Procedure that: (i) MP3tunes.com and Sideload.com are
14 service providers as defined in the DMCA, 17 U.S.C. § 512(k); (ii) the conduct by MP3tunes.com
15 and Sideload.com challenged by Defendants in the Notice falls within the protections of §§ 512(a),
16 (b), (c) and/or (d); (iii) the Notice served on Plaintiff was deficient under 17 U.S.C. §§ 512(c) and/or
17 (d); (iv) to the extent the Notice was not deficient, Plaintiff complied with its obligations under 17
18 U.S.C. §§ 512(c) and/or (d); and (v) the activities of Sideload.com, MP3tunes.com and Oboe
19 complained of by Defendants in the Notice do not constitute direct copyright infringement;
20 contributory copyright infringement and/or inducement of copyright infringement.

SECOND CLAIM FOR RELIEF
(VIOLATION OF THE DMCA, 17 U.S.C. § 512(f))

23 83. MP3tunes repeats and realleges paragraphs 1 through 76 above, as if fully set forth
24 herein.

25 84. In its Notice, Defendants knowingly materially misrepresented that certain material
26 on the Sites was infringing in violation of 17 U.S.C. § 512(f)(1) when it was not.

27 85. Plaintiff has been injured by Defendants' misrepresentations because (1) it relied
28 upon such misrepresentations and removed or disabled access to the allegedly infringing material;

Case 3:07-cv-01844-WQH-NLS Document 17 Filed 12/03/07 Page 14 of 17

1 and (2) Plaintiff was forced to bring this action as a result of the inaccuracies and deficiencies in
2 Defendants' Notice.

3 86. Pursuant to 17 U.S.C. § 512(f), as a result of such knowing material
4 misrepresentations, Defendants shall be liable for any damages, including costs and attorneys' fees,
5 incurred by Plaintiff.

THIRD CLAIM FOR RELIEF

(VIOLATION OF CALIFORNIA BUSINESS & PROFESSIONS CODE § 17200, ET SEQ.)

8 87. MP3tunes repeats and realleges paragraphs 1 through 86 above, as if fully set forth
9 herein.

10 88. The Defendants' acts hereinabove alleged are acts of unfair, unlawful, or deceptive
11 business acts or practices within the meaning of Business and Professions Code Section 17200, et
12 seq.

13 89. Plaintiff is informed and believes that the Defendants will continue to do those acts
14 unless the Court orders them to cease and desist.

15 WHEREFORE, Plaintiff respectfully requests that this Court enter judgment in its favor and
16 against Defendants, as follows:

17 A. On the First Claim for Relief, a declaratory judgment that:

18 (i) MP3tunes.com and Sideload.com are service providers as defined in the
19 DMCA, 17 U.S.C. § 512(k);

20 (ii) the conduct by MP3tunes.com and Sideload.com challenged by Defendants in
21 the Notice falls within the protections of §§ 512(a), (b), (c) and/or (d);

24 (iv) to the extent the Notice was not deficient, Plaintiff complied with its
25 obligations under 17 U.S.C. §§ 512(c) and/or (d); and

26 (v) the activities of Sideload.com, MP3tunes.com and Oboe complained of by
27 Defendants in the Notice do not constitute direct copyright infringement, contributory copyright
28 infringement and/or inducement of copyright infringement; and

Case 3:07-cv-01844-WQH-NLS Document 17 Filed 12/03/2007 Page 15 of 17

1 B. On the Second Claim for Relief, awarding Plaintiff its damages, including its
 2 costs and attorneys' fees pursuant to 17 U.S.C. § 512(f)(1); and

3 C. On the Third Claim for Relief:

4 (i) entering a temporary and permanent injunction prohibiting Defendants and the
 5 Defendants' agents, servants, and employees, and all persons acting under or in concert with them,
 6 to cease and desist from engaging in unfair, unlawful, or deceptive business acts or practices as
 7 herein alleged in violation of California Business and Professions Code §17200, et seq.;

8 (ii) ordering defendants to disgorge any profits that they have earned as a result of
 9 their illegal activities;

10 (iii) awarding Plaintiff its actual damages;

11 (iv) an additional award to Plaintiff of treble damages according to statute; and

12 (v) awarding Plaintiff its costs and attorneys' fees.

13 D. Granting Plaintiff such other, further and different relief as the nature of the
 14 case may require or as may be determined to be just, equitable, and proper by this Court.

15 Dated: December 3, 2007 **DUANE MORRIS LLP**

17 By: s/Edward M. Cramp

18 Edward M. Cramp

19 Michelle Hon

20 Attorneys for MP3TUNES, LLC

21 JURY DEMAND

23 Plaintiff demands a trial by jury on all issues so triable.

24 Dated: December 3, 2007 **DUANE MORRIS LLP**

26 By: s/Edward M. Cramp

27 Edward M. Cramp

28 Michelle Hon

 Attorneys for MP3TUNES, LLC

Case 3:07-cv-01844-WQH-NLS Document 17 Filed 12/03/07 Page 16 of 17

1 Daniel C. Minteer (SBN 62158)
2 Michelle Hon (SBN 234492)
DUANE MORRIS LLP
3 101 West Broadway, Suite 900
4 San Diego, CA 92101
Telephone: 619.744.2200
Facsimile: 619.744.2201
5 E-Mail: dminteer@duanemorris.com
mhon@duanemorris.com

6 | Attorneys for MP3TUNES, LLC

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

I am a resident of the state of California, I am over the age of 18 years, and I am not a party
to this lawsuit. My business address is 101 West Broadway, Suite 900, San Diego, California
92101. On the date listed below, I served the document(s) entitled: **AMENDED COMPLAINT**
FOR DECLARATORY JUDGMENT AND VIOLATION OF THE DIGITAL MILLENNIUM
COPYRIGHT ACT; VIOLATION OF CALIFORNIA BUSINESS AND PROFESSIONS
CODE SECTION 17200: DEMAND FOR JURY TRIAL.

via electronic service to the attorneys of record on file with the U.S. District Court for this case, as follows:

Case 3:07-cv-01844-WQH-NLS Document 17 Filed 12/03/2007 Page 17 of 17

1 Bennett Bigman
2 bbigman@dskllp.com
3 DREIER STEIN & KAHAN LLP
4 1620 26th Street
5 Sixth Floor, North Tower
6 Santa Monica, CA 90404-4060
7 (310) 828-9050
8 (310) 828-9101

Attorneys for Plaintiff

6 I declare under penalty of perjury under the laws of the State of California that the above is
7 true and correct.

8 Executed December 3, 2007, at San Diego, California.
9

10 
11 Diane M. Koski
12

EXHIBIT 4

DREIER^{LLP}

ATTORNEYS AT LAW

The Gursky Group

Ira S. Sacks Partner
Direct 212 652 3730
isacks@dreierllp.com

September 21, 2007

VIA FEDERAL EXPRESS

Steven B. Fabrizio, Esq.
Jenner & Block LLP
601 Thirteenth Street, NW
Suite 1200 South
Washington, DC 20005-3823

Re: MP3tunes, LLC

Dear Steven,

This is in response to your letter of September 18, 2007. As stated in our previous letter, our client has addressed the issues set forth in your cease-and-desist letter in an effort to amicably resolve this issue. We do not feel that a monetary payment is necessary because our client is protected by the DMCA and has not infringed or otherwise violated your client's copyrights.

Although there seems to be little point in an extended discussion of the arguments in your letter, each of your points is briefly discussed below.

First, our interpretation of the DMCA is correct and we did not ignore § 512(d). You correctly state that § 512(d)(3) provides the following:

the information described in subsection (c)(3)(A)(iii) shall be identification of the reference or link, to material or activity claimed to be infringing, that is to be removed or access to which is to be disabled, and *information reasonably sufficient to permit the service provider to locate that reference or link*.

17 U.S.C. § 512(d)(3)(emphasis added). Thus, for a notice to be sufficient you must provide information reasonably sufficient to permit the service provider to locate that reference or link. A reference to a non-exclusive list of artists that EMI represents (or has represented during some period of time) is insufficient. As a result, your notice does not comply with § 512(c)(3)(A)(iii), nor with § 512(d)(3). As we stated in our previous letter, our client complied with its obligations under the DMCA for the list of approximately 350 songs that you provided in your original letter, as you properly set forth the information reasonably sufficient to permit our client to locate the reference or

499 Park Avenue New York, New York 10022
Telephone 212 328 6100 Facsimile 212 328 6101
Los Angeles Stamford Albany
www.dreierllp.com

Exhibit 8
Page 8

Steven B. Fabrizio, Esq.
September 21, 2007
Page 2 of 3

link. And we offered to do the same for any additional references or links. You provided none. Without such information our client cannot locate the allegedly infringing material without great difficulty and it is not required to do so under the DMCA.

Second, you state that once a copyright holder has provided a compliant "representative list" of its works, the obligation shifts to the service provider to remove or disable access to *all* copyrighted works owned by that copyright holder, relying on caselaw and legislative history. However, the legislative notes you rely upon relate to § 512(c)(3)(A)(ii), the identification of copyrighted works, and not § 512(c)(3)(A)(iii), the identification of the material that is claimed to be infringing. Indeed, the same legislative history that you cite states the following:

Subsection (c)(3)(A)(iii) requires that the **copyright owner or its authorized agent provide the service provider with information reasonably sufficient to permit the service provider to identify and locate the allegedly infringing material**. An example of such sufficient information would be a copy or description of the allegedly infringing material **and the URL address of the location (web page) which is alleged to contain the infringing material**. The **goal of this provision is to provide the service provider with adequate information to find and address the allegedly infringing material expeditiously**.

S.R. Rep. No. 105-190, at 46 (1998)(emphasis added); H.R. Rep. No. 105-551, at 55 (1998)(same). Here, with the exception of the list of approximately 350 songs you provided, you have failed to provide our client with information reasonably sufficient to permit it to **identify and locate the allegedly infringing material**. Without adequate notice the burden does not shift to the service provider.

Third, we disagree that countless EMI works that were properly identified in your notice continue to be infringed by and through MP3tunes. Our client has double-checked and confirmed that all links set forth on the list enclosed with your original notice have been removed.

Fourth, your argument that our client is disqualified from all safe harbor protection because (i) MP3tunes has actual knowledge that the material or activity is infringing in violation of § 512(d)(1)(A); or (ii) MP3tunes is aware of facts or circumstances from which infringing activity is apparent in violation of § 512(d)(1)(B); or (iii) MP3tunes receives a financial benefit directly attributable to the infringing activity in violation of § 512(d)(2), is unfounded. Our client does not have actual knowledge of references or links to infringing material — MP3tunes immediately removed the links that you notified it about — and MP3tunes is not aware of facts or circumstances from which infringing activity is apparent. Moreover, MP3tunes does not receive a financial benefit directly attributable to the alleged infringing references or links and even if it did — which it does not — MP3tunes does not have the right and ability to control such

Steven B. Fabrizio, Esq.
September 21, 2007
Page 3 of 3

activity other than by terminating an account. See § 512(d)(2). Furthermore, even if MP3tunes does not have DMCA protection — which we firmly believe it does — MP3tunes is not infringing, inducing infringement or contributing to copyright infringement.

Fifth, we do not believe there is a conflict of interest in representing MP3tunes in a matter adverse to EMI and do not believe that it is necessary to receive a waiver from Caroline Records. You state yourself that Caroline Records is "EMI's affiliate". The two companies are separate legal entities and are run by different management. As you are surely aware, the *Caroline Records* case is a state court collection action which has been pending for several years, and which neither party wants to litigate. It is on the verge of being voluntarily dismissed by Caroline Records. That case is in no way related to the case at hand and does not present a conflict of interest.

In light of the tone of, and accusations in, your letters, enclosed please find a courtesy copy of a summons and complaint which was filed in the Southern District of California, but has not yet been served. We remain open to amicably resolving this situation without resorting to litigation. We invite you again to send a list of additional tracks to which EMI and its affiliates own the copyrights, provide information reasonably sufficient to permit our client to locate the material, and accurately represent that the listed tracks are not legally digitally available for copying (along with the remaining required elements of 17 U.S.C. § 512(c)(3)(A)), so that MP3tunes can disable those songs from sideloading as well.

If you wish to amicably resolve this matter, please feel free to contact me. If not, please let us know if you are willing to accept service on behalf of your clients.

This letter is written without prejudice to the rights, claims and/or defenses of MP3tunes or its affiliates, all of which are hereby expressly reserved.

Sincerely,



Ira S. Sacks

Encls.

cc: Michael Robertson (via email)

Exhibit C
Page 10

EXHIBIT 5

EXHIBIT REMOVED FROM
PUBLIC VERSION
PURSUANT TO
PROTECTIVE ORDER

EXHIBIT 6

EXHIBIT REMOVED FROM
PUBLIC VERSION
PURSUANT TO
PROTECTIVE ORDER

EXHIBIT 7

EXHIBIT REMOVED FROM
PUBLIC VERSION
PURSUANT TO
PROTECTIVE ORDER

EXHIBIT 8

EXHIBIT REMOVED FROM
PUBLIC VERSION
PURSUANT TO
PROTECTIVE ORDER

EXHIBIT 9

EXHIBIT REMOVED FROM
PUBLIC VERSION
PURSUANT TO
PROTECTIVE ORDER

EXHIBIT 10

EXHIBIT REMOVED FROM
PUBLIC VERSION
PURSUANT TO
PROTECTIVE ORDER

EXHIBIT 11

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

CAPITOL RECORDS, INC.; CAROLINE	)	No. 07 Civ. 9931 (WHP)
RECORDS, INC.; EMI CHRISTIAN)	
MUSIC GROUP INC.; PRIORITY RECORDS)	
LLC; VIRGIN RECORDS AMERICA, INC.;)	
BEECHWOOD MUSIC CORP.;)	
COLGEMS-EMI MUSIC INC.; EMI APRIL)	
MUSIC INC.; EMI BLACKWOOD MUSIC;)	
EMI FULL KEEL MUSIC; EMI GOLDEN)	
TORCH MUSIC CORP.; EMI LONGITUDE	)	AFFIDAVIT OF
MUSIC; EMI VIRGIN MUSIC, INC.;	)	CHAD OLSON
EMI VIRGIN SONGS, INC.,)	
)	
<i>Plaintiffs,</i>)	
)	
v.)	
MP3TUNES, LLC AND MICHAEL)	
ROBERTSON)	
)	
<i>Defendants.</i>)	
)	

AFFIDAVIT OF CHAD OLSON

I, Chad Olson, being duly sworn deposes and says:

1.I am neither a party nor attorney in this action. The statements made in this declaration are based on my personal knowledge. If called to testify as a witness, I would testify as follows:

2.I served as the Chief Financial Officer of Linspire Inc. from April 1, 2003 until July 24, 2007. During that time, I worked closely with Michael Robertson, who served as Chairman and, for much of that time, CEO.

3.During my time at Linspire, the company started an online music store called MP3tunes.com. That start-up was eventually spun off, and Linspire's interest in it was diluted. I was party to a number of conversations about the company, both before and after it spun off from

Linspire. Even when it became a separate company and Mr. Robertson became its CEO, Mr. Robertson remained as Chairman of Linspire, and he opened MP3tunes.com's office downstairs from Linspire's. Kevin Carmony, who served as Linspire's COO and as CEO after Mr. Robertson left, and I (and others) often walked with Mr. Robertson across the street to the mall to grab lunch.

4.I recall conversations during two of these walks in which Mr. Robertson explained an idea that he had for MP3tunes. Mr. Robertson was turning MP3tunes into a "locker" service, through which users could upload and store music files in virtual lockers. But based on Mr. Robertson's explanation of his idea, I understood that he did not actually intend to keep the various files that particular users uploaded. Instead, he would keep only one copy of the file, regardless of how many users tried to store it in their lockers. So even if ten users uploaded the same file, he would not keep ten copies of it. He would keep one, master copy of it. Instead of listening to files that they themselves had uploaded, users would in fact be "sharing" files uploaded by other users.

5.Mr. Robertson also discussed that he would make it *look* like each user was storing his or her own file, by making the users upload the files that they wanted to store. But he said that this process was simply a way to get around the record labels ever finding out what he was doing. In fact, when a user uploaded a file that some previous user had already uploaded or sideloaded onto the system, MP3tunes would simply discard the newly uploaded file. Mr. Robertson said that he thought that the uploading process that users would go through provided enough of a cover that the record labels would never find out.

6.When Mr. Robertson explained this, Mr. Carmony cautioned him, pointing out that the idea sounded basically like what Mr. Robertson had done at a previous company, MP3.com, that

had resulted in a multi-million dollar copyright judgment against it. I also expressed concern, because Linspire had a financial stake in MP3tunes.com, and as CFO I did not want Mr. Robertson to put Linspire in any kind of financial jeopardy. After Mr. Carmony and I cautioned against the idea, Robertson responded using the words (or words to the effect of), "they'll never find out."

7. After these discussions, Mr. Robertson diluted Linspire's financial interest in MP3tunes. After Linspire's interest was diluted, I became less concerned about MP3tunes' copyright liability, and I did not revisit the issue.

8. In my experience dealing with Mr. Robertson when he was with Linspire and MP3tunes, when he wants something to happen within the company, it happens. He is a strong personality, and it is a regular occurrence that others oppose his ideas, but he implements them anyway. Michael Robertson runs the business. It is *his* business.

9. Mr. Robertson has a financial relationship with a New York-based venture-capital firm called Downtreader Ventures.

10. In numerous discussions about MP3tunes and the music industry, Mr. Robertson made clear that he wanted his company to affect the industry. Mr. Robertson often said that his goal was to get one of the major record companies to enter a significant contract with him, so that the other labels would be forced to enter contracts with him as well.

1/25/08
Date

Chad Olson
Chad Olson

Subscribed and sworn to before me on this 20th day of January, 2008.

Jurat

State of California

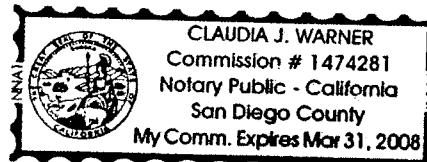
County of San Diego

Subscribed and sworn to (~~or affirmed~~) before me on this 25 day of January,
2008 by Chad H. Olson,

proved to me on the basis of satisfactory evidence to be the person(s) who appeared before me.

Claudia J. Warner
 Signature

(Notary seal)



OPTIONAL INFORMATION

INSTRUCTIONS FOR COMPLETING THIS FORM

The wording of all Jurats completed in California after January 1, 2008 must be in the form as set forth within this Jurat. There are no exceptions. If a Jurat to be completed does not follow this form, the notary must correct the verbiage by using a jurat stamp containing the correct wording or attaching a separate jurat form such as this one which does contain proper wording. In addition, the notary must require an oath or affirmation from the document signer regarding the truthfulness of the contents of the document. The document must be signed AFTER the oath or affirmation. If the document was previously signed, it must be re-signed in front of the notary public during the jurat process.

DESCRIPTION OF THE ATTACHED DOCUMENT

Affidavit of Chad Olson

(Title or description of attached document)

(Title or description of attached document continued)
 Number of Pages 4 Document Date 1/25/08

(Additional information)

- State and County information must be the State and County where the document signer(s) personally appeared before the notary public.
- Date of notarization must be the date that the signer(s) personally appeared which must also be the same date the jurat process is completed.
- Print the name(s) of document signer(s) who personally appear at the time of notarization.
- Signature of the notary public must match the signature on file with the office of the county clerk.
- The notary seal impression must be clear and photographically reproducible. Impression must not cover text or lines. If seal impression smudges, re-seal if a sufficient area permits, otherwise complete a different jurat form.
 - ❖ Additional information is not required but could help to ensure this jurat is not misused or attached to a different document.
 - ❖ Indicate title or type of attached document, number of pages and date.
- Securely attach this document to the signed document

My commission expires _____.

Notary Public

Notary
Public
Commission
Expires _____

EXHIBIT 12

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

CAPITOL RECORDS, INC.; CAROLINE)
RECORDS, INC.; EMI CHRISTIAN)
MUSIC GROUP INC.; PRIORITY RECORDS)
LLC; VIRGIN RECORDS AMERICA, INC.;)
BEECHWOOD MUSIC CORP.;)
COLGEMS-EMI MUSIC INC.; EMI APRIL)
MUSIC INC.; EMI BLACKWOOD MUSIC;)
EMI FULL KEEL MUSIC; EMI GOLDEN)
TORCH MUSIC CORP.; EMI LONGITUDE)
MUSIC; EMI VIRGIN MUSIC, INC.;)
EMI VIRGIN SONGS, INC.,)
Plaintiffs,)
v.)
MP3TUNES, LLC AND MICHAEL)
ROBERTSON)
Defendants.)

) No. 07 Civ. 9931 (WHP)
**AFFIDAVIT OF
KEVIN CARMONY**

AFFIDAVIT OF KEVIN CARMONY

I, Kevin Carmony, being duly sworn deposes and says:

1. I am neither a party nor attorney in this action. The statements made in this declaration are based on my personal knowledge. If called to testify as a witness, I would testify as follows:
 2. I have known and/or worked with Michael Robertson for about ten years. I briefly served as a product director for one of his previous companies, MP3.com. I have also served as President, Chief Operating Officer, and Chief Executive Officer of another of Mr. Robertson's companies, Linspire. After six years, I left Linspire on July 31, 2007, and I am now the Chief Executive Officer of an online social networking site.

3. During the time that I served as Linspire's President and COO, which lasted from 2001 until 2005, Mr. Robertson served as the company's Chairman and CEO. We worked together closely. One of Linspire's projects involved looking for ways that we could participate in the changing landscape of digital music worldwide.

4. Along those lines, Linspire started an online music store that we called MP3tunes. The company was 100% owned by Linspire. Later, Linspire spun off MP3tunes as a separate company. While retaining his post as Linspire's Chairman, Mr. Robertson left the CEO job and became CEO of MP3tunes. (I then became Linspire's CEO, in 2005.) I then suggested he consider Emily Richards to be involved, and Robertson named her as MP3tunes' President. My understanding of MP3tunes' operations comes from my participation in the company's origins at Linspire, as well as from conversations I have had with Mr. Robertson.

5. During the time that I served as CEO of Linspire, and Mr. Robertson served both as the Chairman of Linspire and as the CEO of the newly-spun-off MP3tunes.com, he and I occasionally discussed MP3tunes.com. This period spanned roughly 2005 to 2007. Especially in light of its origins at Linspire, I wanted to see the new company do well. When MP3tunes was first spun off, it maintained its focus on becoming an online, digital music store. It did not have the "lockering" or "sideload" components that the service offers today.

6. During this time, Mr. Robertson and I also held weekly meetings to discuss Linspire, where he remained Chairman. Mr. Robertson and I would often talk about MP3tunes.com in our coordination meetings or when eating lunch together on occasion. During one of our coordination meetings, Mr. Robertson discussed his idea to add a "locker" service to MP3tunes.com. Under this plan, Mr. Robertson explained that users could upload their music into virtual "lockers," and they could then listen to works that they had uploaded from any

computer or device with an internet connection. I responded by noting that the plan sounded very expensive to me, and that it sounded similar to the system Robertson had used at MP3.com. We discussed how his plan involved two major costs: bandwidth costs, for all of the traffic involved as users upload and download large music files, and storage costs, to maintain all of the copies of all of the works that users store in their individual lockers.

7. At a later coordination meeting, Mr. Robertson mentioned that he had figured out how to eliminate one of the two major costs that we had discussed for his MP3tunes.com “locker” idea. He told me that the company could drastically reduce the storage costs by storing only one copy of any identical music file, regardless of how many users uploaded it, and regardless of how many users believed that they had stored their “own” copy of that file in “their” locker. Mr. Robertson explained that any time a user uploaded or copied a file over to MP3tunes.com, the system would examine the file and determine whether MP3tunes already had a copy of that file on its servers (because another user had uploaded it at some previous point). If MP3tunes’ algorithm determined that MP3tunes already had that file, the system would simply discard the file that the user was then uploading. Thus, instead of storing individual users’ own copies of music files in each user’s own locker, the MP3tunes system would keep just *one* copy of any particular file, and would simply “point” individual users – who believed they had stored a copy of their own file – to that single copy. As he explained it to me, Mr. Robertson seemed very pleased, proud and excited about this approach, as he had determined that he would save massive amounts of expensive storage space by using this method. He shared with me the numbers and calculations of how little storage space this approach would require.

8. I understood Mr. Robertson to be saying that, under his system, if Person A uploads a particular file, and then Person B uploads the identical file, when Person B later tries to

download the file from (what he believes to be) his locker, he will not in fact download his own file. He will download Person A's file.

9. I immediately told Mr. Robertson that this approach sounded like a clear violation of copyright law, and basically the same thing he had been sued for while running MP3.com. Users who listened to music from their purported "lockers" would not in fact be listening to files that they had uploaded, but instead would be copying files that *someone* else had uploaded. Mr. Robertson replied using the words (or words to the effect of), "How is anyone ever going to find out?" and "Unless someone comes and audits our servers, they'd never know." He also said, using the words (or words to the effect of), "If we make people go through all the trouble of uploading a file, they'll assume we're doing it legally." It is also my recollection that Mr. Robertson said that if anyone ever suspected that the locker service was not in fact "lockering" individual users' music, but was actually copying a single file and distributing it to multiple users, the company could, before anyone found out, hurry and change the system and "backfill" the servers so that each user got a separate copy placed in a personal locker.

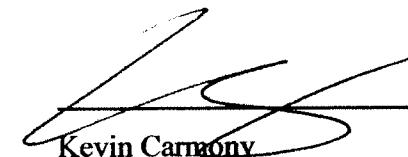
10. I did not discuss this issue with Mr. Robertson after these brief conversations.

11. In my experience, Mr. Robertson is extremely hands-on and involved in his companies' strategic decisions and day-to-day operations. He is very technologically savvy and regularly involved in technological decisions. Particularly in a company like MP3tunes.com, where he has more technological experience than others in the senior management team (such as Ms. Richards, whose background is primarily in music and business), nothing happens without him knowing it. Regularly, others in his companies would not want to do something, but the company would go ahead with the idea solely because Mr. Robertson wanted to. In a very real sense, the company *is* Michael Robertson.

12. Mr. Robertson's previous company, MP3.com, was found liable for willful acts of copyright infringement in the Southern District of New York. Mr. Robertson has told me that he believes he lost that suit partly because the case was litigated in New York, a city he believed was very friendly to the music industry, the industry that he believes basically wrote the copyright laws for music. As a result, he stated that he does not like to litigate there. However, I know that Mr. Robertson maintains business relationships with New York entities. One of his companies, SIPphone Inc., has publicly trumpeted financing that it received from Downtreader Ventures, a New York venture capital firm. Mr. Robertson was quoted in SIPphone's press release about the deal.

1-25-08

Date



Kevin Carmony

Subscribed and sworn to before me on this _____ day of January, 2008.

Notary Public

My commission expires _____.

Jurat

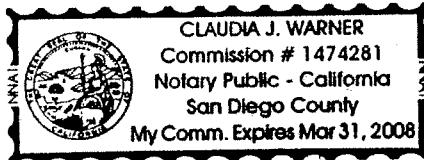
State of California

County of San Diego

Subscribed and sworn to (or affirmed) before me on this 25 day of January,
2008 by Kevin Carmony,
proved to me on the basis of satisfactory evidence to be the person(s) who appeared before me.

Claudia J. Warner
Signature

(Notary seal)



OPTIONAL INFORMATION

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DESCRIPTION OF THE ATTACHED DOCUMENT

Affidavit of Kevin Carmony

(Title or description of attached document)

(Title or description of attached document continued)

Number of Pages 6 Document Date 1/25/08

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- Securely attach this document to the signed document

EXHIBIT 13

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REDACTED

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556726	Hartsdale	19.95	7/6/2007 15:25
471403	Brooklyn	39.95	11/30/2005 18:12
471403	Brooklyn	39.95	1/25/2006 13:21
554643	MINEOLA	39.95	6/13/2007 17:42
496699	Brockport	0.88	7/12/2006 18:12
481684	New York	39.95	2/8/2006 13:51
552615	Saratoga Springs	0.88	5/31/2007 11:26
493567	New York	39.95	5/23/2006 15:43
475217	New York	39.95	12/3/2005 15:08
		39.95	10163

REDACTED

D000050

434335		0.88
434335		8.88
440444		8.88
568645	Kingston	12401
454061	Hornell	14843
454061	New York	10028
454061	New York	10028
469655	new york	10021
493901	Pittsford	14534
467491	New York	10128
496314	New York	10003
472682	New York	10280
467276	New York	10009
490019	Dix Hills	11746
490019	Dix Hills	11746
516205	West Islip	11795
494019	Sanborn	14132
522151	New York	10010
484437	New York	10022
545884	New York	10003
439287	Bronx	10463 4929
473742	New York	10010
476932	Gansevoort	12831
476932	Gansevoort	12831
574891	Canaan	12029
470372	Spencerport	14559
472875	Rochester	14608
481779	Great Neck	11021
546432	Mount Vernon	10552
485361	Ronkonkoma	11779
465194	New York	10011
465194	New York	10011
465194	New York	10011
466461	Mount Kisco	10549
444494	New York	10128
483188	Elmont	11003
517401	Brooklyn	11218
466967	Rosedale	11422
442505	Brooklyn	11218
541596	New York	10014
541596	New York	10014
518693	New York	10001

REDACTED

D000051

0.88	5118693	New York	10001	12/17/2006 10:24
8.88	468507	New York	10038	8/24/2005 20:38
8.88	468507	New York	10038	8/24/2005 21:10
0.88	460314	Rochester	14610	4/22/2005 14:13
0.88	460314	Rochester	14610	4/22/2005 14:24
0.88	460314	Rochester	14610	4/22/2005 14:27
0.88	460314	Rochester	14610	4/22/2005 14:29
0.88	460314	Rochester	14610	4/22/2005 14:33
0.88	460314	Rochester	14610	4/23/2005 20:51
0.88	460314	Rochester	14610	4/23/2005 20:59
0.88	460314	Brooklyn	11235	5/7/2006 8:40
0.88	492138	New York	10004	3/16/2006 5:56
39.95	485175	Bronx	10463-6704	11/30/2005 9:31
39.95	471291	New York	10002	1/14/2007 19:17
0.88	524924	Brooklyn	11215	5/9/2005 15:14
0.88	466310	Brooklyn	11211	3/19/2006 8:00
39.95	485481	New York	10022	2/25/2006 7:33
39.95	483182	New York	10022	5/5/2007 8:17
0.88	483182	Bronx	10470	7/3/2005 18:00
0.88	467336	Rochester	14618	7/22/2006 13:42
0.88	497462	Ithaca	14850	2/9/2005 23:28
0.88	434118	Ithaca	14850	2/9/2005 23:29
0.88	434118	Ithaca	14850	2/9/2005 23:35
0.88	434118	Ithaca	14850	2/9/2005 23:36
0.88	434118	Ithaca	14850	2/9/2005 23:41
0.88	434118	Ithaca	14850	2/10/2005 0:08
0.88	434118	Brooklyn	11215	5/8/2006 9:27
0.88	434118	Depew	14043	7/6/2005 10:16
0.88	434118	Depew	14043	7/6/2005 10:16
8.88	467378	Wading River	11792	5/24/2005 12:43
8.88	466615	Wading River	11792	5/24/2005 13:16
8.88	466615	Wading River	11792	5/25/2005 15:55
8.88	466615	Wading River	11792	5/25/2005 15:59
8.88	469419	Ozone Park	11417	9/30/2005 15:48
0.88	469562	Brooklyn	11219	10/5/2005 18:31
0.88	469562	Brooklyn	11219	10/5/2005 18:32
0.88	469562	Brooklyn	11219	10/5/2005 18:32
0.88	469562	Brooklyn	11219	10/5/2005 18:35
0.88	469562	Brooklyn	11219	10/5/2005 18:36
0.88	469562	Brooklyn	11219	10/5/2005 18:36
0.88	469562	Brooklyn	11219	10/5/2005 18:38
0.88	469562	Brooklyn	11219	10/5/2005 18:39

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469562	11219	10/9/2005	13:25	8.88
469562	11219	10/9/2005	13:25	8.88
532173	1105	2/14/2007	16:55	39.95
461054	14850	4/23/2005	10:35	0.88
461054	14850	4/23/2005	10:39	0.88
555340	11215	6/18/2007	17:11	39.95
433813	11218	2/9/2005	14:56	0.88
508373	12789	10/11/2006	18:52	0.88
526079	11746	1/21/2007	18:42	8.88
477173	11377	12/11/2005	6:22	0.88
449162	10002	3/22/2005	15:52	8.88
447355	11372	3/15/2005	19:54	0.88
494093	10012	5/30/2006	13:25	39.95
494093	10012	5/31/2007	20:21	39.95
456606	10009	4/20/2005	15:50	0.88
492576	12072	5/10/2006	22:14	39.95
492576	12072	5/17/2007	19:15	19.95
452525	10701	4/11/2005	18:07	8.88
505992	10038	9/24/2006	11:20	8.88
471134	14564	12/1/2005	12:27	39.95
474079	10009	12/2/2005	3:33	39.95
477675	11211	1/2/2005	23:13	39.95
580568	10462-2065	11/18/2007	13:26	0.88
580568	10462-2065	1/2/4/2007	17:09	8.88
bnew york	10462-2065	1/2/6/2007	21:21	0.88
NEW YORK	11218	5/18/2007	15:32	8.88
New York	10011	3/19/2006	8:45	39.95
New York	10011	4/1/2007	18:05	39.95
New York	10179	2/6/2006	17:54	39.95
New York	10019	1/2/2/2005	7:25	39.95
Dix Hills	10034	3/8/2006	17:55	0.88
Dix Hills	11746	5/20/2005	20:57	0.88
Dix Hills	11746	5/20/2005	21:08	0.88
Dix Hills	11746	5/20/2005	21:22	0.88
Dix Hills	11746	5/20/2005	21:27	0.88
Dix Hills	11746	5/20/2005	21:34	0.88
Dix Hills	11746	5/20/2005	21:38	0.88
Dix Hills	11746	5/20/2005	21:48	0.88
Dix Hills	11746	6/20/2005	22:07	0.88
Brooklyn	11211	12/8/2006	12:23	39.95
Bronx	10475	10/5/2005	11:59	0.88

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2/13/2005	17:14	0.88
2/13/2005	17:43	8.88
7/14/2006	15:23	39.95
12/9/2005	9:35	0.88
5/28/2005	21:16	0.88
5/28/2005	21:16	0.88
5/3/2005	20:11	8.88
11/5/2005	23:45	8.88
2/18/2006	5:55	0.88
2/18/2006	5:55	0.88
2/18/2006	5:56	0.88
2/18/2006	5:58	0.88
2/18/2006	5:59	0.88
2/18/2006	6:00	0.88
2/18/2006	6:00	0.88
2/18/2006	6:00	0.88
2/18/2006	6:00	0.88
2/20/2006	0:03	0.88
2/20/2006	0:04	0.88
2/20/2006	0:04	0.88
2/20/2006	0:04	0.88
2/20/2006	0:04	0.88
2/20/2006	0:05	0.88
2/20/2006	0:05	0.88
2/20/2006	0:06	0.88
2/20/2006	0:06	0.88
2/20/2006	0:21	0.88
3/23/2006	22:23	8.88
6/3/2006	21:42	19.95
3/4/2007	19:16	0.88
3/4/2007	19:16	0.88
3/4/2007	19:17	0.88
3/4/2007	19:17	0.88
3/4/2007	19:19	0.88
3/4/2007	19:19	0.88
3/4/2007	19:19	0.88
3/4/2007	19:20	0.88
5/20/2007	19:31	39.95
6/15/2007	22:16	8.88
6/15/2007	22:24	8.88
6/15/2007	22:31	0.88
6/15/2007	22:32	0.88

REDACTED

52461	Owego	13827	6/15/2007 22:34	0.88
52461	Owego	13827	6/15/2007 22:34	0.88
52461	Owego	13827	6/15/2007 22:35	0.88
52461	Owego	13827	6/19/2007 14:54	8.88
52461	Owego	13827	6/19/2007 15:05	8.88
52461	Brooklyn	11225	6/12/2005 10:38	0.88
466356	Brooklyn	11225	6/16/2005 8:01	8.88
466356	Huntington	11743	12/1/2005 6:08	39.95
472506	Stony Brook	11790	6/21/2005 21:33	0.88
467108	Stony Brook	11790	6/21/2005 21:34	0.88
467108	Stony Brook	11790	6/21/2005 21:34	0.88
467108	Rochester	14619	6/23/2005 1:29	0.88
467131	Rochester	14619	7/26/2005 23:04	0.88
467131	New York	10003	9/12/2007 12:33	39.95
567647	Brooklyn	11211	2/10/2005 12:11	0.88
434654	Brooklyn	11211	2/10/2005 12:14	0.88
434654	Port Washington	11050	7/27/2005 9:03	29.95
467904	New York	10022	3/22/2006 10:10	39.95
486545	New York	10022	3/28/2007 8:02	39.95
486545	New York	10022	3/28/2007 8:02	39.95
486545	Ithaca	14850	2/22/2007 20:54	8.88
534162	rockville centre	11570	8/14/2005 18:49	8.88
468279	Nyack	10960	3/18/2006 14:00	39.95
485345	Nyack	10960	3/16/2007 4:58	39.95
485345	Port Ewen	12466	7/30/2005 7:45	0.88
467979	Port Ewen	12466	7/30/2005 8:07	0.88
467979	Port Ewen	12466	7/30/2005 8:07	0.88
467979	Port Ewen	12466	7/30/2005 8:07	0.88
467979	Port Ewen	12466	7/30/2005 8:08	0.88
467979	Port Ewen	12466	7/30/2005 8:08	0.88
493564	Brooklyn	11222	5/23/2006 15:21	39.95
457081	Shirley	11967	4/14/2005 10:26	8.88
574033	New York	10009	1/3/2008 4:04	39.95
470977	Morrisville	13408	11/27/2005 11:48	0.88
532638	New York	10025	2/15/2007 8:52	0.88
491226	New York	10023	9/18/2006 7:46	39.95
491226	New York	10023	10/2/2007 16:00	19.95
491226	New York	10023	9/18/2006 7:46	39.95
491226	New York	10023	10/2/2007 16:00	19.95
435860	Brooklyn	11217	2/11/2005 20:38	8.88

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D000056

471531	Brooklyn	NY	11222	39.95
533010	Hastings on Hudson	NY	10706	39.95
557523	Erin	NY	14838	39.95
468557	Greenfield Center	NY	12833	0.88
558912	New York	NY	10023	8.88
442422	Delphi Falls	NY	13051	8.88
489207	White Plains	NY	10603-3242	39.95
472571	Brooklyn	NY	11201	7/12/2007 7:45
475224	New Windsor	NY	12553	10/27/2005 7:59
471567	Newark Valley	NY	13811	10/20/2006 7:57
505949	NEW YORK	NY	10023	4/13/2006 12:31
546659	brooklyn	NY	11217	5/1/2007 21:34
5586720	Buffalo	NY	14216	12/28/2007 11:21
505949	Brooklyn	NY	11223	9/23/2006 22:15
546289	New York	NY	10022	4/30/2007 11:08
514445	ny ny	NY	10017	11/22/2006 11:16
514445	ny ny	NY	10017	11/22/2006 18:07
514445	Westfield	NY	14787	11/22/2006 5:27
514445	Westfield	NY	14787	11/9/2007 5:44
511105	Westfield	NY	14787	11/2/2006 5:27
511105	Westfield	NY	14787	11/9/2007 5:44
511105	Westfield	NY	11228-2338	2/11/2005 11:39
511105	Brooklyn	NY	11228	1/19/2006 14:59
511105	Brooklyn	NY	11228	3/19/2007 7:27
511105	Brooklyn	NY	11228	2/11/2005 11:39
511105	Brooklyn	NY	11228	1/19/2006 14:59
21371	Brooklyn	NY	11228	3/19/2007 7:27
21371	Brooklyn	NY	11228	2/11/2005 11:39
21371	Brooklyn	NY	11228	1/19/2006 14:59
21371	Brooklyn	NY	11228	3/19/2007 7:27
21371	Brooklyn	NY	11228	2/11/2005 11:39
21371	Brooklyn	NY	11228	1/19/2006 14:59
21371	Brooklyn	NY	11228	3/19/2007 7:27
21371	Malverne	NY	11565	4/29/2005 14:02
21371	New York	NY	10012	9/14/2007 14:21
21371	Elmhurst	NY	11373	11/16/2006 11:58
21371	Rochester	NY	14623	2/10/2005 8:37
21371	Highland Mills	NY	10930	9/20/2006 18:17

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D000057

550588			39.95	
466496			8.88	
466496	Brooklyn	NY	11208	0.88
466496	Brooklyn	NY	11208	10/30/2005 19:53
466496	Brooklyn	NY	11208	5/17/2005 17:56
466496	Brooklyn	NY	11208	10/30/2005 19:53
466496	Albany	NY	12866	0.88
485213	New York	NY	10021	3/16/2006 12:03
504451	Troy	NY	12182	39.95
470496	Troy	NY	12182	9/24/2006 19:40
470496	Troy	NY	12182	11/8/2005 14:58
470496	Troy	NY	12182	11/8/2005 14:58
470496	Troy	NY	12182	11/8/2005 14:58
470496	Troy	NY	12182	11/8/2005 14:59
469610	new york	NY	10022	8.88
5388357	Cold Spring	NY	10516	39.95
485192	Rochester	NY	14624	4/8/2007 18:48
482074	Webster	NY	14580	6/3/2006 14:50
4888594	armonk	NY	10504	5/20/2007 9:04
4666637	New York	NY	10003	19.95
481518	Sea Cliff	NY	11579	2/12/2006 12:04
586022	Buffalo	NY	14209	4/6/2006 7:39
502095	New York	NY	10012	5/25/2005 14:31
454834	WEST BABYLON	NY	11704	2/5/2006 13:08
454834	WEST BABYLON	NY	11704	4/8/2005 5:25
485141	New York	NY	10128	12/25/2007 6:34
485141	New York	NY	10128	9/18/2006 6:34
437346	Vernon Center	NY	13477	39.95
437346	Vernon Center	NY	13477	4/8/2005 13:06
492918	New York	NY	10033	0.88
492918	New York	NY	10001	2/14/2005 8:27
454888	Brooklyn	NY	11216	0.88
454888	Brooklyn	NY	11216	2/14/2005 8:27
470282	New York	NY	10001	0.88
560807	White Plains	NY	10601	5/14/2006 10:47
560807	White Plains	NY	10601	3/22/2007 5:00
560807	White Plains	NY	10601	2/14/2005 8:25
560807	White Plains	NY	10601	4/8/2005 14:22
560807	White Plains	NY	10601	4/8/2005 14:23
560807	White Plains	NY	10601	10/30/2005 7:17
560807	White Plains	NY	10601	7/25/2007 6:47
560807	White Plains	NY	10601	7/25/2007 7:57
560807	White Plains	NY	10601	7/25/2007 8:09
560807	White Plains	NY	10601	7/25/2007 12:22
560807	White Plains	NY	10601	7/25/2007 12:59
560807	White Plains	NY	10601	7/25/2007 13:34
560807	White Plains	NY	10601	7/25/2007 14:21
560807	White Plains	NY	10601	7/25/2007 14:41
560807	White Plains	NY	10601	7/25/2007 14:57
560807	White Plains	NY	10601	7/25/2007 15:09
560807	White Plains	NY	10601	7/25/2007 15:42

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D000058

White Plains	10601	NY	7/25/2007 15:54
White Plains	10601	NY	7/27/2007 13:29
White Plains	10601	NY	7/29/2007 20:33
White Plains	10601	NY	8/6/2007 20:31
White Plains	10601	NY	8/6/2007 20:41
Brooklyn	11226	NY	7/30/2005 22:31
Brooklyn	11226	NY	7/30/2005 22:59
Brooklyn	11226	NY	7/30/2005 23:19
Brooklyn	11226	NY	7/30/2005 23:24
Brooklyn	11226	NY	7/31/2005 16:11
Morrisonville	12962	NY	10/14/2007 4:52
Bronx	10456	NY	9/24/2006 11:25
New York	10009	NY	4/11/2006 20:58
Middletown	10940	NY	11/16/2005 8:33
NY	10025	NY	5/21/2006 19:25
Jamaica	11434	NY	5/30/2005 21:30
New York	10013	NY	6/8/2007 6:37
Yorktown Heights	10598	NY	5/27/2005 16:59
Yorktown Heights	10598	NY	5/27/2005 17:03
Yorktown Heights	10598	NY	10/11/2005 16:10
Yorktown Heights	10598	NY	10/11/2005 16:12
Yorktown Heights	10598	NY	10/11/2005 16:13
Yorktown Heights	10598	NY	10/20/2006 12:51
Yorktown Heights	10598	NY	10/20/2006 12:56
Yorktown Heights	10598	NY	10/20/2006 13:02
Rochester	14623	NY	10/30/2005 16:50
Rochester	14623	NY	10/30/2005 16:50
New York	10009	NY	3/18/2006 19:51
New York	10009	NY	3/16/2007 6:12
Brooklyn	11233	NY	3/24/2007 21:25
Floral Park	11004	NY	2/3/2007 7:56
Stony Brook	11790	NY	6/10/2005 4:29
Stony Brook	11790	NY	6/10/2005 4:30
Stony Brook	11790	NY	6/10/2005 4:31
Stony Brook	11790	NY	6/10/2005 4:31
Stony Brook	11790	NY	6/10/2005 4:33
Stony Brook	11790	NY	6/10/2005 4:33
Stony Brook	11790	NY	6/10/2005 4:33
new york	10024	NY	11/1/2005 18:28
new york	10024	NY	11/1/2005 18:28
spring valley	10977		

D000059

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			8.88	3/19/2006 17:48	39.95
485542	new york	NY	10019	3/30/2006 12:21	39.95
487974	Bronx	NY	10463	3/31/2006 10:13	39.95
487974	Bronx	NY	10463	12/26/2005 10:13	39.95
478463	new york	NY	10011	12/26/2005 10:13	39.95
434011	Tarrytown	NY	10591	2/9/2005 19:27	8.88
481371	Syracuse	NY	13219	2/2/2006 12:16	39.95
481371	Syracuse	NY	13219	4/1/2007 20:31	39.95
435593	West Seneca	NY	14224	2/11/2005 10:59	0.88
468205	E. Northport	NY	11731	8/10/2005 19:41	0.88
457327	Bronx	NY	10466	4/15/2005 1:23	8.88
5888921	brooklyn	NY	11213	1/9/2008 21:32	39.95
512481	Brooklyn	NY	11201	11/9/2006 9:34	0.88
495099	New York	NY	10022	6/14/2006 19:23	39.95
476867	woodside	NY	11377	12/9/2005 3:41	39.95
516960	Jamestown	NY	14701	12/7/2006 11:02	0.88
481596	Brooklyn	NY	11211	6/6/2006 20:44	19.95
481596	Brooklyn	NY	11211	6/4/2007 11:00	39.95
481596	Brooklyn	NY	11211	6/6/2006 20:44	19.95
481596	Brooklyn	NY	11211	6/4/2007 11:00	39.95
481596	Brooklyn	NY	11211	6/6/2006 20:44	19.95
481596	Brooklyn	NY	11211	6/4/2007 11:00	39.95
481596	Brooklyn	NY	11211	6/6/2006 20:44	19.95
481596	Brooklyn	NY	11211	6/4/2007 11:00	39.95
481596	Angola	NY	14006	5/10/2006 9:56	39.95
481596	Angola	NY	14006	5/7/2007 17:40	39.95
481596	Amherst	NY	14228	2/11/2007 9:01	19.95
473123	Brooklyn	NY	11231	12/8/2005 12:07	39.95
481596	Brooklyn	NY	11222	6/6/2006 20:44	19.95
481596	North woodmere	NY	11581	2/26/2005 19:32	8.88
492458	Endicott	NY	13760	12/9/2005 9:36	39.95
492458	Albany	NY	12203	9/6/2005 18:00	0.88
529773	Brooklyn	NY	11211	2/25/2007 9:58	39.95
441894	New York	NY	10002	2/25/2005 9:25	8.88
441894	New York	NY	10011	4/15/2006 14:53	39.95
468790	Brooklyn	NY	10007	12/1/2005 11:18	39.95
534715	Brooklyn	NY	11230	11/7/2007 22:22	0.88
469028	Brooklyn	NY	11230	11/8/2007 20:25	0.88
578577	Brooklyn	NY	11230	11/9/2007 6:28	0.88
578577	Brooklyn	NY	11230	11/9/2007 6:28	0.88
469028	Bronx	NY	10472	9/16/2005 21:16	29.95
4666684	Huntington	NY	11743	5/28/2005 5:52	0.88

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D000060

466684	Huntington	NY	11743	5/28/2005 6:14	0.88
466684	Huntington	NY	11743	5/28/2005 6:14	0.88
466684	Huntington	NY	11743	6/8/2005 16:16	0.88
466684	Huntington	NY	11743	5/28/2005 5:52	0.88
466684	Huntington	NY	11743	5/28/2005 6:14	0.88
466684	Huntington	NY	11743	5/28/2005 6:14	0.88
466684	New York	NY	60601	3/27/2006 9:49	39.95
487588	Tonawanda	NY	14150	11/19/2006 17:05	0.88
5114046	Bohemia	NY	11716	6/26/2007 18:49	39.95
556572	Mineola	NY	11501	3/13/2005 9:42	8.88
556572	New York	NY	10128	1/29/2007 17:19	8.88
446590	Syracuse	NY	10021	11/3/2007 8:45	39.95
522714	Brewster	NY	13224	5/11/2006 15:31	39.95
5778094	Port Jefferson	NY	10509	8/26/2006 11:48	39.95
490276	Grand Island	NY	11777	4/3/2007 9:35	19.95
497615	Huntington Station	NY	14072	1/17/2006 23:01	39.95
529682	Rochester	NY	11746	2/24/2007 22:14	8.88
479470	Ithaca	NY	14623	7/19/2006 9:24	39.95
5334730	Ithaca	NY	14850	6/2/2005 11:45	8.88
497078	Ithaca	NY	14850	6/2/2005 13:31	0.88
466789	Ithaca	NY	14850	6/2/2005 13:32	0.88
466789	Ithaca	NY	14850	6/2/2005 13:32	0.88
466789	Ithaca	NY	14850	6/2/2005 13:32	0.88
466789	Ithaca	NY	14850	6/2/2005 13:32	0.88
466789	Oakland Gardens	NY	11364	5/13/2007 6:16	19.95
466789	Dansville	NY	14437	12/28/2005 15:40	29.95
466789	Dansville	NY	14437	4/19/2006 7:37	0.88
466789	Dansville	NY	14437	4/19/2006 7:37	0.88
466789	Dansville	NY	14437	4/19/2006 7:38	0.88
466789	White Plains	NY	10605	6/10/2005 20:21	0.88
466789	New York	NY	10029	8/1/2006 20:23	39.95
549013	New York	NY	10017	3/20/2006 14:30	39.95
476736	New York	NY	10011	3/31/2006 8:23	39.95
476736	Brooklyn	NY	11222	8/16/2005 10:41	0.88
476736	Brooklyn	NY	11222	8/16/2005 10:42	0.88
476736	Brooklyn	NY	11222	8/16/2005 10:43	0.88
485631	Newtonville	NY	12128	8/15/2006 18:27	8.88
488036					
468295					
468295					
468295					
498992					

REDACTED

D000061

491758		39.95
467139	NY	10023
467139	NY	10605
White Plains	NY	10605
White Plains	NY	6/23/2005 12:35
White Plains	NY	8.88
White Plains	NY	6/23/2005 12:35
White Plains	NY	8.88
White Plains	NY	6/27/2005 15:44
White Plains	NY	8.88
White Plains	NY	6/23/2005 13:36
White Plains	NY	8.88
White Plains	NY	6/23/2005 12:35
White Plains	NY	8.88
White Plains	NY	6/23/2005 12:35
White Plains	NY	8.88
White Plains	NY	6/27/2005 15:44
White Plains	NY	8.88
White Plains	NY	6/23/2005 13:36
White Plains	NY	8.88
New York	NY	5/3/2006 13:55
White Plains	NY	3/7/2005 17:29
White Plains	NY	0.88
White Plains	NY	6/28/2005 16:11
White Plains	NY	0.88
White Plains	NY	12/28/2005 16:15
White Plains	NY	0.88
White Plains	NY	12/28/2005 16:22
White Plains	NY	0.88
New York	NY	10027
Massena	NY	13662
Massena	NY	12/28/2005 16:31
Massena	NY	0.88
Massena	NY	12/28/2005 16:32
Massena	NY	0.88
Astoria	NY	11105
Astoria	NY	12/15/2006 11:01
New York	NY	8.88
New York	NY	10022
New York	NY	12/1/2005 7:34
Fairport	NY	10009
Fairport	NY	39.95
Brooklyn	NY	14450
Brooklyn	NY	12/14/2005 18:35
brooklyn	NY	0.88
brooklyn	NY	11209
brooklyn	NY	11/25/2005 8:12
brooklyn	NY	0.88
brooklyn	NY	4/9/2005 21:46
brooklyn	NY	8.88
New York	NY	11221
Brooklyn	NY	6/18/2006 15:31
Brooklyn	NY	8.88
Brooklyn	NY	3/20/2005 10:38
Cheektowaga	NY	11231
Cheektowaga	NY	0.88
Cheektowaga	NY	2/14/2005 7:20
Cheektowaga	NY	8.88
SYRACUSE	NY	14227
SYRACUSE	NY	7/17/2005 6:56
SYRACUSE	NY	0.88
SYRACUSE	NY	9/25/2005 7:15
SYRACUSE	NY	0.88
SYRACUSE	NY	12/1/2006 3:46
SYRACUSE	NY	39.95
north bellmore	NY	13206
north bellmore	NY	12/8/2007 8:23
north bellmore	NY	39.95
north bellmore	NY	11710
north bellmore	NY	10/28/2005 3:23
north bellmore	NY	0.88
north bellmore	NY	11710
north bellmore	NY	10/28/2005 3:32
north bellmore	NY	0.88
north bellmore	NY	11710
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north bellmore	NY	0.88
north bellmore	NY	10/29/2005 7:51
north bellmore	NY	0.88
north bellmore	NY	10/29/2005 7:52
north bellmore	NY	0.88
north bellmore	NY	10/29/2005 7:54
north bellmore	NY	0.88
New York	NY	11710
New York	NY	5/6/2007 11:19
	NY	10022

REDACTED

D00062

0.88	470681		11/14/2005 17:16	39.95
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453113	11580		4/3/2005 16:11	0.88
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new york	10012		7/20/2005 8:52	0.88
new york	10012		7/20/2005 9:54	0.88
new york	10012		7/21/2005 12:15	0.88
Brooklyn	11217		2/9/2005 8:29	8.88
Glen Head	11545-2635		4/13/2005 15:50	8.88
Glen Head	11545-2635		4/13/2005 16:23	8.88
Glen Head	11545-2635		4/13/2005 16:26	8.88
Glen Head	11545-2635		8/5/2005 16:28	8.88
Glen Head	11545-2635		8/10/2005 17:19	8.88
Glen Head	11545-2635		12/9/2005 3:30	39.95
Glen Head	11545		4/13/2005 15:50	8.88
Glen Head	11545		4/13/2005 16:23	8.88
Glen Head	11545		4/13/2005 16:26	8.88
Glen Head	11545		8/5/2005 16:28	8.88
Glen Head	11545		8/10/2005 17:19	8.88
Glen Head	11545		12/9/2005 3:30	39.95
Glen Head	11545		4/13/2005 15:50	8.88
Glen Head	11545		4/13/2005 16:23	8.88
Glen Head	11545		4/13/2005 16:26	8.88
Glen Head	11545		8/5/2005 16:28	8.88
Glen Head	11545		8/10/2005 17:19	8.88
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Glen Head	11545		4/13/2005 16:26	8.88
Glen Head	11545		8/5/2005 16:28	8.88
Glen Head	11545		8/10/2005 17:19	8.88
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Glen Head	11545		4/13/2005 16:26	8.88
Glen Head	11545		8/5/2005 16:28	8.88
Glen Head	11545		8/10/2005 17:19	8.88
Glen Head	11545		12/9/2005 3:30	39.95
Rochester	14625		2/16/2005 10:54	8.88
Beacon	12508		12/1/2005 14:21	0.88
Jamaica	11433		3/7/2005 18:24	0.88
Ronkonkoma	11779		12/13/2005 19:46	0.88
Ronkonkoma	11779		12/13/2005 19:57	0.88
Ronkonkoma	11779		12/13/2005 20:00	0.88
Ronkonkoma	11779		12/14/2005 18:01	0.88
Ronkonkoma	11779		12/30/2005 16:23	0.88
Ronkonkoma	11779		12/30/2005 16:27	0.88

REDACTED

477489		12/30/2005 16:28	0.88
476123		12/6/2005 19:28	39.95
506915	Glen Cove	10/1/2006 6:04	39.95
506915	Glen Cove	10/11/2007 7:35	39.95
466770	Byron	5/31/2005 23:19	0.88
466770	Byron	5/31/2005 23:51	0.88
466770	West Babylon	6/10/2005 22:26	0.88
526110	West Babylon	1/22/2007 0:22	0.88
526110	Rochester	1/22/2007 0:43	0.88
526110	Huntington	2/18/2005 7:07	0.88
428919	white plains	12/18/2006 5:40	0.88
518837	Staten Island	4/15/2007 14:47	0.88
542656	North Bellmore	3/6/2007 10:16	39.95
486798	Staten Island	11/22/2007 14:48	0.88
581185	Staten Island	8/23/2005 15:14	0.88
468478	Staten Island	9/1/2005 14:50	0.88
468671	Staten Island	9/2/2005 19:03	0.88
468671	Staten Island	9/10/2005 6:47	0.88
468671	Staten Island	9/11/2005 11:29	0.88
468671	Staten Island	9/11/2005 19:17	0.88
468671	Staten Island	9/14/2005 4:03	0.88
468671	Staten Island	9/17/2005 7:55	0.88
468671	Staten Island	9/30/2005 13:44	0.88
468671	Staten Island	10/8/2005 17:23	0.88
468671	Staten Island	10/24/2005 16:47	0.88
468671	Staten Island	10/25/2005 14:44	0.88
468671	Staten Island	11/1/2005 12:05	0.88
468671	Staten Island	11/12/2005 14:34	0.88
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468671	Staten Island	12/14/2005 22:50	0.88
468671	Staten Island	12/14/2005 22:51	0.88
468671	Dix Hills	4/26/2006 14:57	0.88
468671	Ellenville	5/8/2007 18:13	39.95
468671	New York	9/10/2005 21:59	0.88
468671	Schenectady	11/25/2005 9:06	0.88
478090	Schenectady	9/10/2005 22:20	0.88
470933	Schenectady	9/10/2005 22:22	0.88
548344	Staten Island	3/30/2006 16:04	19.95
466700	Colton	12/3/2005 14:51	39.95

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467440	Wappinger	NY	12590	7/9/2005 9:47	0.88
467440	Wappinger	NY	12590	7/9/2005 9:47	0.88
467440	Wappinger	NY	12590	7/9/2005 9:47	0.88
467440	New York	NY	10021	3/15/2006 13:45	39.95
485077	Friendship	NY	14739	3/16/2005 15:43	8.88
266569	Whitesville	NY	14897	3/16/2005 15:43	8.88
266569	New York	NY	10002	7/29/2007 5:05	39.95
561339	Mount Kisco	NY	10549	3/5/2005 7:24	8.88
444257	Melville	NY	11747	12/25/2006 11:31	39.95
520151	White Plains	NY	10605	10/22/2006 22:13	19.95
497761	Rochester	NY	14616	11/4/2005 22:09	0.88
470425	alberton	NY	11507	5/14/2006 16:21	8.88
492943	Jamaica	NY	11434	10/1/2005 16:21	8.88
469445	Jamaica	NY	11434	10/1/2005 16:32	8.88
469445	Cutchogue	NY	11935	3/16/2006 14:35	39.95
485236	new york	NY	10003	12/6/2005 11:49	39.95
476184	new york	NY	10003	3/19/2007 3:55	19.95
476184	new york	NY	10036	12/6/2005 11:49	39.95
476184	new york	NY	10036	3/19/2007 3:55	19.95
476184	rochester	NY	14620	6/12/2005 19:17	8.88
466931	Fayetteville	NY	13066	6/6/2005 5:06	8.88
466841	Clinton Corners	NY	12514	2/18/2005 2:21	8.88
439423	Clinton Corners	NY	12514	2/18/2005 2:26	8.88
439423	Stewart Manor	NY	11530	7/6/2006 21:14	0.88
496381	NEW YORK	NY	10014	8/7/2005 12:35	8.88
468129	Brooklyn	NY	11230	12/7/2007 11:09	39.95
580035	New York	NY	10024-3914	2/9/2005 7:51	0.88
433422	New York	NY	10024-3914	3/21/2007 10:33	19.95
433422	New York	NY	10024	2/9/2005 7:51	0.88
433422	New York	NY	10024	3/21/2007 10:33	19.95
433422	Brooklyn	NY	11206	9/27/2005 12:38	0.88
469352	Saugerties	NY	12477	4/5/2006 9:13	8.88
488525	New York	NY	10019	3/27/2007 19:58	0.88
539713	Lancaster	NY	14086	9/13/2006 10:22	19.95
494427	Lancaster	NY	14086	9/13/2007 9:25	39.95
494427	Brooklyn	NY	11225	5/6/2007 5:13	39.95
547781	White Plains	NY	10605	6/18/2005 12:52	8.88
467048	White Plains	NY	10605	6/18/2005 14:34	8.88
467048	New York	NY	10001	2/9/2005 13:47	8.88
433731	New York	NY	10001	10/22/2005 12:45	8.88
433731	New York	NY	10001	3/23/2006 7:00	9.95

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467986	8.88	7/30/2005 15:35
472917	39.95	12/1/2005 10:00
485531	8.88	3/19/2006 16:54
485531	39.95	3/19/2006 18:07
485531	0.88	4/8/2006 18:39
485531	0.88	4/8/2006 18:40
485531	0.88	4/8/2006 18:40
485531	0.88	4/8/2006 18:40
485531	0.88	4/9/2006 17:21
485531	0.88	9/9/2006 17:22
485531	0.88	9/9/2006 17:23
485531	0.88	9/9/2006 17:23
485531	0.88	3/16/2007 5:54
485531	39.95	3/15/2007 11:50
485531	0.88	4/7/2007 8:09
485531	0.88	5/21/2005 18:05
485531	0.88	5/14/2005 20:23
485531	0.88	5/29/2007 6:49
537792	39.95	3/21/2006 12:14
537792	39.95	3/16/2007 6:42
466570	39.95	3/16/2007 6:42
466422	39.95	3/20/2006 20:13
549616	39.95	3/17/2007 7:38
482348	39.95	12/8/2005 18:09
482348	39.95	3/30/2007 18:16
482348	39.95	3/10/2007 15:32
485673	39.95	2/8/2006 21:18
485673	39.95	8/23/2006 7:00
476550	39.95	8/23/2006 7:00
476550	39.95	10/22/2005 11:11
537105	39.95	1/6/2008 22:05
481712	39.95	12/25/2005 12:48
499385	39.95	12/28/2005 12:06
499385	39.95	
470090	39.95	
588449	39.95	
478374	39.95	
478374	39.95	

10039
NY NY NY 10022
new York
Brooklyn
Binghamton
Binghamton
queens village
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New York
Rochester
Rochester
Petersburgh
bronx
brooklyn
brooklyn
Brooklyn
New Rochelle
New York
New York

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Michael Robertson

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What's our purpose in life?

June 15th, 2005

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Recently, on the way to school my 2nd grader asked me, "What's our purpose in life?" That's a deep question, especially at 7:40 AM, so I thought my best tactic was diversion. "Did you bring your backpack?" I responded. "Yeah. But I wanna know what our purpose in life is." It was clear he wasn't going to let me off easy, so I answered something like you'd read in *Chicken Soup for the Soul*: "To be nice to other people and take care of your family."

"That's NOT a purpose and besides, that will just mean there will be more people on the planet. I want to know WHY we're here. What's the goal?" Luckily, right about then we arrived at his school and, like a knocked-down prize fighter, I was saved by the bell. It gave me a solid day to think about a better answer because I was sure he'd resume the inquisition after school.

I know what my purpose in life is - to use technology to build companies that promote choice and opportunity. My personality embraces big ideas, even if that means competing with powerful companies/monopolies and defining new legal ground. I'm a believer in open standards, consumer access and healthy competition.

Being born in 1967 makes me an analog baby. During my lifetime the world is moving completely digital: entertainment (music, photos, videos), communication (written, spoken) and commerce - even activities that you wouldn't necessarily think of, like girls playing dress-up. This shift is creating amazing business opportunities for my generation that future generations will look back on yearningly as the "big opportunity time."

To maximize my purpose, I have decided to make the move to Chairman of Linspire. I've turned the CEO title over to Kevin Carmony, Linspire's long-time President. He started Linspire while I was still at MP3.com and is officially the first Linspire employee. He's a tremendous leader and knows Linspire better than anyone in the world. I'm excited to see him build on Linspire's momentum and take it to the next level where there will be millions of Linspire users. As Chairman, I'm still actively involved with Linspire and care more about it than ever, but this will give me more time to devote to some of my other projects.

I recently broke down and launched a personal web site - michaelrobertson.com - to list some of the companies I'm currently involved with. I've resisted for a long time because I've thought that most personal web sites are about as silly and useless as vanity car plates. Hopefully, mine will have more useful information than just glamour photos. This is where you'll be able to read the Michael's Minutes each week. You'll also find links to some of the companies that I've mentioned in past Minutes like MP3tunes, REEF, and SIPphone, but also some links to some that I haven't mentioned like Sadie's. You'll see a couple of new entries to the web site in the next couple of months. And I'll do my best to chronicle the progress of these companies on the web site.

When I arrived home that night my son was sitting at the table doing his homework. "Dad, you never told me what the purpose of life is." Having had a full day to contemplate, I responded: "Everyone's purpose in life is different. I can only tell you my purpose, but you must discover your own purpose in life. Now finish your homework."

- Michael

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The Michael's Minute Meter

71% Do YOU generally agree or disagree with

[ECL](#) [MY YAHOO!](#)

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[Dealipedia - The Business Wiki Now Open For Business](#)
[Backdoor Dialing - Free Calling to Millions of US Phones](#)
[RIAA and EMI - All Your Music Are Belong To Us](#)
[Imeem Gets License And Death Sentence](#)
[SIPphone Becomes Gizmo5 - Now For Your Mobile Phone Too](#)
[Your Music on the Wii, PS3, Windows Mobile and More!](#)
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3/27/2008

	<p>Michael in this week's Minute shown above?</p> <p><input type="radio"/> I generally AGREE with Michael this week</p> <p><input type="radio"/> I generally DISAGREE with Michael this week</p> <p><input type="radio"/> I am MIXED or don't have an opinion either way</p> <p>AGREE</p> <p>DISAGREE</p> <p>MIXED</p> <p>Total Votes: 627</p> <p>20%</p> <p>7%</p> <p>Vote!</p> <p>View the Michael's Minute Meter Report</p>	
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EXHIBIT 16

EXHIBIT REMOVED FROM
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PURSUANT TO
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EXHIBIT 17

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EXHIBIT 18



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ROBERTSON/MICHAEL

09-Aug-2007 2:39 pm

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THIS IS AN E-TICKET RESERVATION.
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THE FLIGHTS BOOKED. IF THE RESERVATION IS NOT USED
OR CANCELLED BEFORE THE DEPARTURE OF YOUR FLIGHTS
IT MAY HAVE NO VALUE. CONTACT TRAVELTRUST BEFORE
YOUR OUTBOUND FLIGHT IF CHANGE IS NECESSARY.

*** AMERICAN E-TICKET CONFIRMATION
*** JETBLUE E-TICKET CONFIRMATION

Air	American Airlines	Flight#	160	Class:	F
From:	San Diego CA, USA	To:	New York Kennedy NY, USA		
Meal:	Breakfast	Seats:	Seat:2F		
Equip	Boeing 757 Jet	Status:	Confirmed		
Depart:	13-Aug-2007 Monday	07:40am			
Arrival:	13-Aug-2007 Monday	04:05pm			
Depart	- TERM NAL 2				
Arrive	- TERM NAL 9				
American Airlines locator: HJXMLY					
AA Frequent Flyer#					
*** WINDOW SEAT 2F					
Flight Duration: 5 hour(s) and 25 minutes					
Class of Service: First					
DEPARTS TERM NAL 2 ARR TERM NAL 9					
Other					

13-Aug-2007
07:40am
Monday

13-Aug-2007
Monday

13-Aug-2007
Monday

15-Aug-2007
Wednesday

15-Aug-2007
10:10am
Wednesday

02-Mar-2008
Sunday

New York Kennedy NY, USA
-US HELICOPTER FLIGHT AT 515PM TO 34TH ST

Hotel	W Hotels W New York Times Square	TIMES S
1567 BROADWAY, NEW YORK NY 10036		
Phone:	1-212-930-7400	Fax: 1-212-930-7500
Number of Rooms:	1	Rate: 529.00USD
Confirmation:	Room Guaranteed	
Check Out:	15-Aug-2007 Wednesday	Cancel Before 1 Day(s) prior to Arrival
REQ KING NON SMOKING REPEAT CLIENT		
Other		

New York Kennedy NY, USA
-US HELICOPTER AT 830AM FROM DOWNTOWN

Air	Jetblue Airways Corp	Flight#	183	Class:	Q
From:	New York Kennedy NY, USA	To:	San Diego CA, USA		
Meal:	None	Status:	Confirmed		
Equip	Airbus A320 Jet	Stops:	0		
Depart:	15-Aug-2007 Wednesday	10:10am			
Arrival:	15-Aug-2007 Wednesday	01:00pm			
Depart	- TERM NAL 6				
Arrive	- TERM NAL 2				
*** WINDOW SEAT 23A					
Flight Duration: 5 hour(s) and 49 minutes					
Class of Service: Coach					
DEPARTS TERM NAL 6 ARR TERM NAL 2					
Other					

San Diego CA, USA
RESERVATION RETAINED FOR 300 DAYS

REDACTED



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ROBERTSON/MICHAEL

09-Aug-2007 2:39 pm

Page 2 of 2

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Ticket Base Fare:	1166.51
Ticket Tax:	97.89
Total Ticket Amount:	1264.40

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SERVCE FEE DOCUMENT #: 8155449930 FEE AMOUNT: 30.00

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camille wood, Michael Robertson

Tue Aug 14, 2007 (Pacific Time)

9am

10am

11am

12pm

1pm

2pm

3pm

4pm

5pm

6pm

7pm

8pm

Meeting w/Harry Johnson - v/Tinner (cell: 516 810 1221) @ 39 West 19th Street, Suite 613, between 5th & 6th.
3:30pm - 4:30pm

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EXHIBIT 19

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**TRANSCRIPT OF KEYNOTE INTERVIEW
MICHAEL ROBERTSON – JIM GRIFFIN
DIGITAL MUSIC FORUM EAST
FEBRUARY 27, 2008**

MODERATOR: We are extremely fortunate to have Michael Robertson and Jim Griffin with us here today. How many people know these guys? All right. That says it. So, these are two of the leading minds out there and true innovators in their thoughts and actions. Michael Robertson, as you all know, is the founder of MP3.com and now has a company called MP3tunes that was referred to actually a few times earlier, first by Gary Shapiro there in the music locker . . . excuse me? (laughter) Yes. In the context of copyright. So maybe we can kind of delve into . . . in this session what's going on copyright-wise with respect to music locker services. And, Jim Griffin, great friend, great supporter of Digital Media Wire, my company, currently managing director of OneHouse, also the founder of the Pho List, which I am a member of . . . am a proud member of and have been for many years. And I'll turn things right over to Jim and let these guys take it from here.

JIM: Thanks. I should disclose that I did just sign a deal with the Warner Music Group, and I'm going to be working for them for the next three years on a project we haven't announced yet, so you'll hear more about that in the future. That really doesn't have any bearing here although I know Mike . . .

MICHAEL: Because Warner's not suing me at this moment.

JIM: Probably not. I mean . . . not at this moment although . . .

MICHAEL: Not at this moment.

JIM: Although, by the way, I'll say . . .

MICHAEL: How do you know?

JIM: You know, Michael, you have been a kind of a full-employment project for the legal community for a while now. I mean, as the transactions business has gone down in the music world, you've certainly provided fruitful opportunities for those who wish to use their bar license to remunerate themselves and their families and their firms. I'm here to thank you for them.

My goal over this brief half hour that we have is that the people in the audience here come to know you better because I have to say that I feel like I do know you . . . that we are friends, and I think we've known each other since almost the very beginning of the digital music business.

MICHAEL: That's right.

JIM: I know we met on the phone when I was the only guy who would talk to you, I think . . .

MICHAEL: Right.

JIM: . . . in the music business, and I've enjoyed that association a great deal. But, I don't really have a particular point to make here so much as I feel like if people know you better, they'll understand you better; and I think that leads to good things in this business. But, you know, as they say in the legal community, *res ipsa loquitur*, meaning the thing speaks for itself so I'm not going to put words in your mouth. I'd just like people here to understand you better, and I think that starts with the mundane. And so, I think . . . I'd like you to tell the audience, who are you, your family, where do you come from? Tell us a little bit about your background and the things that you hold dearest to you, aside from the business.

MICHAEL: Well, I think I'm not a music crazy guy, if, you know like, there's people that are music guys. I'm not a music guy. I'm a technology guy. You know, and I think that's . . . since the days of MP3 . . . that's what's given me a very different perspective because I said well this is clearly where the technology is going to go. Whether the industry is going to be ahead of that or behind it or pulled or pushed, you know, to me was of no consequence. It was just this is where the technology is going to be. So, everything that I . . . you know the way I approach this business is as a technologist, saying "hey, where is it going to go?" When I started MP3.com ten years ago, I didn't know anything about the music business, and one of my first calls indeed was to you and you educated me a lot about the publishing and this right and that right and things like that. And now, I hopefully know a little bit more about the music business. But I still don't . . . you know, my perspective is as a net guy. That's the way I think of myself -- as a net guy. And I've always been bullish on the music industry. I think they haven't managed the digital migration properly, but I've never been about anarchy and all songs for free for everyone. I'm just looking to see where the technology is going to be and try to get there.

JIM: I think that you . . . I've said this many times before . . . I think you define the word bonomic. And by that I mean this fusion of biology and economics that has the rising tide of digitization like the rising tide of a river. That simply finds a shorter path from source to destination. And I say that partly because the river has no conscience. It isn't thinking about how it just flooded a school or a church, and you really can't blame the river. But, a lot of people blame you. You know, they take it very, very personally, and I know their view is that they believe you have malice in your heart and that you want to take their money from them and so forth and so I think your phrase, you know, you're a technologist and so forth explains a lot of what I've seen.

But I want to go . . . I don't want you to avoid this particular question very much because I want to go back to that time when you started MP3.com, and I want you to talk about what you were doing at that time, what kind of car were you driving, were you married, were you dating, did you have children? I'd like you to tell the audience about what kind of a person you are and let them understand your motivations.

MICHAEL: I was married and I was dating. Oops . . . walked into it.

JIM: You are bonomic.

MICHAEL: That's right. You know, listen. I grew up very poor. You know, I'm a classic entrepreneur story. I grew up very poor and hungry and that makes me work crazy hours and things like that. When I started MP3.com, I was driving a beat-up Honda Accord, and to me, I looked at MP3 as a digital inevitability, sort of what you call the bionomics. It just, it has to happen.

JIM: Now, you were running a company called File . . .

MICHAEL: Well I was. I was running a search engine.

JIM: FileZ.

MICHAEL: FileZ, that's right. And this is way back in history. And the reason I found MP3 was because I would track what people would search on the search engine, and you guys have seen the list, right? Sex is number 1 and Britney is 2 or whatever the list is. But, the interesting part of the list is what's on the bottom of the list that was never on the list before. That's where the opportunity is if you're a businessman. Right? And so what I saw on FileZ which was an FTP search engine, was people were searching for this thing called MP3. My analysis was, I don't know what it is, but if people are searching for it, there's an opportunity there. I mean that was the extent of my initial analysis and my first exposure to MP3. And of course, once I realized what it actually did and what it enabled, I was even more . . . I believed that even more that it would be a dominant force and it would eventually be where the industry goes.

JIM: So what did you do about it? I mean, somehow you had to get the domain, MP3.

MICHAEL: I went to register the domain. Of course it was taken, so I offered . . . I sent email to the guy who owned it. I said, "hey, I'd like to buy that domain, and I'll pay you \$1,000." Which, remember this is back in 1997. That's a lot of money for a domain name. And I was really poor. We had no curtains in our house. We were driving beater cars. So, the guy writes back to me, "What's MP3?" And I was like wait a second, why did you register MP3, if you don't know what MP3 is? And the reason he registered it is 'cause that was his initials in his name were M and P. And so he didn't know what it was and I said, well, it's this digital music thing, and I don't know really what we're going to do with it, but I'll offer you \$1,000. And he says okay. And so I bought it. I went home. I told my wife, you know, I bought a domain today and she goes "what'd you buy?"

"MP3."

"How much did you pay?"

I said \$1,000.

She's like "What? That's garbage. That's just two consonants and a number. That doesn't mean anything."

I said, no, no, I think it's going to be big. I think it's going to be big. And then when we turned that website on for the first time, you know, actually put up a site at MP3.com, 10,000 unique visitors that first day with no press, no . . . you know, we just turned it on and then that was just another factor that wow, something big is happening here.

JIM: What did you sell MP3.com for . . . the business?

MICHAEL: We sold it for about \$400 million to Vivendi Universal.

JIM: Your wife, I guess, her opinion changed on the . . .

MICHAEL: That's right.

JIM: On the value of that domain.

MICHAEL: That's right.

JIM: And how do you live today? You were driving beater cars and you know, no drapes.

MICHAEL: Right. I have drapes today. I have a wonderful house right on the beach in Del Mar which is part of San Diego. And then I recently bought a ranch, too, which is just fantastic. I have two boys, nine and ten, so . . .

JIM: Well, now we're both ranchers . . .

MICHAEL: That's right. Pretend ranchers on the weekend. They go out there. They climb trees, and herd cows and stuff like that. It's kind of fun.

JIM: I fend off bears.

MICHAEL: Whoa!

JIM: Although, a bear did break into the house not all that long ago. I've actually come to appreciate this particular beaver that keeps trying to dam up my pond and raise its water level, and I've come to realize that that beaver symbolizes that community of people that trades music files. Because as much as I every night go out at midnight and try to clear out that dam, that water level keeps rising. I called a Canadian friend of mine and said "well, you probably know something about beavers being a Canadian," and my friend said, "look, I'll tell you right now. That beaver has one thing on its mind and you have many, and you are going to lose." And that's absolutely right. That beaver is another part of the bionomic story of the music business, I think. But, you know, let's fill in the picture a little bit here. I mean, you do have music endeavors?

MICHAEL: Um-hmm.

JIM: You have some non-music endeavors.

MICHAEL: That's true.

JIM: Could you describe a little bit about each your music and your non-music endeavors to this audience?

MICHAEL: So, I bought an office building in San Diego, and it's divided into four quadrants and in each quadrant is a different company. So what I've found is that I'm kind of . . . very forceful and . . . well, you know, kind of a jerk sometimes. I mean let's be honest here. And so what I do though to mellow me out is that I start multiple companies and this way, I go to one company, "Is it done yet, is it done yet, is it done yet?" And then they go "Get out of here." And then I go to the next company, "Is it done yet, is it done yet, is it done yet?" And then I circle back around, and they will have actually done something by the time I've circled through all the companies.

JIM: Have they built a warning system when so that when you're at one, they give a warning to the next?

MICHAEL: That's right. So, I do some VOIP stuff. I do some . . .

JIM: Well now, wait a minute, wait a minute. You don't just go, "Oh, I do some VOIP stuff." That's a fairly geeky dismissal of the notion that you've built a substantial inroad into the phone companies that's got a value of I'd say over \$100 million at this point. I think you'd agree with me it's worth at least that much.

MICHAEL: Well, you know, I looked at . . . I love disruption in a place . . . I love when there's industries that are in massive change because when there's massive change and everyone's moving the chairs around, that's the chance for a new guy to get a chair. Right? I mean, if there's no change, then the old guys are just sitting there with their elbows out and no one else gets at the table. Right? So, when I see, you know, VOIP, all calls are moving to the Internet just like all music is moving to the Internet, it's a no-brainer, it has to happen, bionomics, digital destiny, whatever you want to call it. And so, yeah, three years ago I invested in a VOIP company, and we have a fantastic partnership with Nokia. This phone right here does WiFi. And when I go to make a call, the phone can use the WiFi or the traditional phone carrier . . . incredibly disruptive and that's what that company does.

JIM: I carry the same phone. Much better than a Crackberry, I think. So, now, I guess you're going to dismiss your budding competition with Bill Gates as just a little OS endeavor.

MICHAEL: Desktop Linux. Yeah, so I started Desktop Linux Company about five years ago.

JIM: Linspire.

MICHAEL: Yeah, Linspire. It was called Lindows then. There was a little name dispute. Now, it's called Linspire.

JIM: Something makes me think you won that name dispute.

MICHAEL: Well, its . . .

JIM: I mean rumor had you getting \$50 million from Microsoft to settle out the dispute.

MICHAEL: It was probably one of the rare times where a company was sued and then the company that sued them paid them money to change their name. It wasn't 50, it was 20 and this is all in the SEC documents so I'm not violating any confidentiality agreement.

JIM: Still, \$20 million payday to walk away is pretty good when you were the defendant in a lawsuit.

MIKE. Yeah, that's pretty unusual. That's pretty unusual. But I have to thank for that the beating that I took at MP3.com into court, right? Because at MP3.com we were like 0 for 87 in lawsuits, and if you are paying attention when you lose, you learn a lot. And I learned a lot. So since, then I've done a little better in court.

JIM: So, now if you're in the audience and keeping score on the scorecards we issued, you've taken on the music and media businesses, the operating system business, and the telephone business, and I think there's still another quadrant in the building left, so what am I missing?

MICHAEL: We have a little hobby company that just launched -- SyncWizard -- it just launched yesterday. You can check it out. And the notion is this. Is that one of the things I believe is a theme that I got from you at the very first MP3 summit which was a conference that I put on when I started MP3.com. Jim showed up and just raised hell because he got up and said downloads don't matter to a roomful of people that were doing MP3 and thought it was the greatest thing in the world. And his concept was . . . his belief was . . . everything will be streamed. Right?

JIM: Someday.

MICHAEL: Someday. And at the time, this was blasphemy to those folks. But the gist of that, that everything will be streamed, that is absolutely undebateable.

JIM: Delivery--

MICHAEL: How quickly we get there--

JIM: Delivery kills distribution over a period of time.

MICHAEL: Absolutely.

JIM: Because distribution is merely an inefficiency of networks.

MICHAEL: Right. So, I say it a lot more plain than he does. You know? I think of it as everything is going to the cloud. Right? Everything is moving to the Internet. If it can be digitized, it's moving to the Internet. And even if it can't be digitized--my favorite example of this is dressing up dolls. Right? For little girls? Has all moved to the Internet. Right? They all use Flash sites and you go and you do Britney Spears or Christine Aguilera. Who would have thought dress-up could be digitized and moved to the Internet? But it is. And so what SyncWizard does, which is what the company I just launched--the service I just launched yesterday--you run the software and it takes all of your personal belongings, your music, your documents, your bookmarks, your contacts, your calendar, and sticks it into the cloud. Right? Sticks it on the Internet so that you can access it from anywhere in the world at any time on any device. And this is really just an extension of a theme that you said which is, hey, all my music's going to be in the cloud, and I'm just going to zap it to whatever device I want to have it on, you know, eventually.

JIM: Yeah, eventually, downloads, MP3s become like traveler's checks in a world of ATMS and credit cards. You know, if you foresee that coming.

MICHAEL: Exactly.

JIM: Now, did you have a demo you wanted to show us some of the projects you were working on?

MICHAEL: I did. I wanted to do some very quick locker stuff. So, what I spend a lot of time on now--

JIM: Why don't you do that now?

MICHAEL: Okay. What I spent a lot of time on now is MP3tunes. And so the concept is everything is moving to the cloud. All your music is going to move to the cloud. It's that simple. Right? I mean, there's no--my belief is that if you look at the cost of electronics, it's just crashing. You know, you guys, I don't even have to tell you this. Right? And the notion that you're going to have one music device is absurd. What you're going to have is a dozen music devices. One you go jogging with, one in your car, one in your home stereo, one on your laptop. I mean, you're going to have a dozen different places you want to listen to music on, and that music has to come from a source. That source is All Personal Locker. That's what MP3tunes does.

And so I want to do just a couple quick demos and show you some of the advancements that we've just recently made literally. Next month, we're going to announce it. So first let me tell you what's bad about a music locker. 'Cause that's important. 'Cause what's great about it, is all your music is backed up. You can go to any computer in the world. There's your music. What's bad about it is that it's passive. It's like a phone book. Yeah, all the data's in there, but it's very boring to read. So, that's one of the problems. The second problem is that, yeah, I can

put my music in there, but how do I get it to all my devices? And that's a problem, right? And no one wants to manage their music. That needs to happen automatically.

And so, that's what I want to show you here is something called "Auto Sync." So, I'm going to kick out of the PowerPoint and go to something a little more interesting here. I'm going to buy a song from Amazon. This is a high-falutin' music crowd, so I need to pick something that's going to properly convey my musical stature and impress everyone. But, yet it needs to be familiar. So, let's go with something like this maybe. "The Macarena," yeah. You just can't go wrong here. Right. All right. So, let's buy "The Macarena." Now, I'm at the Amazon MP3 store here, right, which is just fantastic. By the way, this was the final nail in the coffin for DRM for music, right. How much do you think that the Napster DRM Store is worth now? Or, Best Buy or Wal-Mart? It's worth like, zero. Right? Because if you can buy a song and it works anywhere, you know, there's no reason to buy DRM music. So, DRM is officially dead. And I say this because when I started MP3tunes, our whole premise is, your music has to already--let's purchase it again--I did a demo yesterday.

So we're going to purchase "The Macarena" here. Let's purchase another song here. What else do we want? How about Billy Idol? It's an older crowd. It's an older crowd. He played at our IPO party here for MP3.com. So let's buy Billy Idol, too. So, I just bought these two songs. I'm on a laptop here. And, what I want to show you, though, is that over here--so, they call it a WiFi tablet. And what I've done here is I've connected this to My Locker. So, what's going to happen here--let's do this--what's going to happen here is this song is going to download, you see "The Macarena" downloaded then this next song is going to download. On this computer is Locker Sync which is a software that we use to load music to your locker. And it quietly runs in the background. So anytime a song touches your computer, it immediately goes to your locker. And that's what's going to happen after this song downloads. You're going to see it's watching quietly in the background. So, if I rip a CD, or I buy a track, or download a promotional track, whatever, it's automatically going to go to my locker.

Now, remember that, in my vision of the world, you've got twelve different devices you listen to your music on. This device is connected to that locker. I've gone and I've put my user name and password on this device and said, "I'm Michael. Here's my password. Keep track of my music." So, what's going to happen is that the computer is going to spot: "Oh, you have a new file. Let me automatically push that to your locker for you." And then this device is going to say, "Ah, you have new music. Let me automatically suck that down so that when you jump on your plane to fly back to San Diego, all your music is on your device and plays great." And this is a concept we call autosyncing. We've limited it to five devices. So, much like iTunes can play music on five computers, you can have five different devices connected to your personal locker. Each device can only be connected to one locker at a time. So, that's AutoSync. And, oh, wow. See, this is why people tell me never to do live demos. Right here. 'Error--mismatched files size file.' Aye, aye, aye. 'Retry in fifteen seconds.' I . . . that sounds pretty bad, huh? All right. We'll see if this actually works here.

But while this is going, I want to show you one more quick demo here. Let's go back to the web browser. I'm going to sign out of this locker. I'm going to sign into my own personal locker here. So remember I said to you the problem with the locker is that it's very boring. It's

A-Z. It shows you all your music. It's not like a radio. Right? Sometimes you just want music handed to you. And so, what we've done is we've partnered with a company called AMG, All Music Guide, and we've implemented some technology called Playmix. And let's put in Billy Idol. Say, I want to listen to some Billy Idol music. It's going to find all the Billy Idol music in my locker, if I have any. Let's see. There it is. "White Wedding." Right, we can play "White Wedding." But, what I'm going to do though, and I'm going to click play, but I'm going to click 'create playmix.' You see this button here? What this will do is scan my entire locker for any similar sounding music to Billy Idol. And what it will do, is it will pull a list of those tracks and give me a radio-type experience. So, I can say, I'm in, you know, a Sade kind of mood, or a Billy Idol mood, or whatever, and it will immediately spit back music to me that fits that mood. Now, why this is important is because now on any device, I have a radio-type experience with no royalties, right? This is my own music. Right? But, it's also fully interactive. So, if you hear a song, you want to hear it ten times in a row, hit rewind and play. Go ahead. You know, you want to pause it, skip forward, you can. All the stuff that you can't do with traditional radio. And so, here's the list of songs. Right? The Specials, Mirror in the Bathroom, Talking Heads, Billy Idol, Icicle Works. I picked a lot of 80's stuff here, right? As you would expect. So those are two, I think, really important trends that, I think, important components here. And here's "White Wedding" downloading here. See this? Indeed, White Wedding is downloading. Correct?

JIM: There's no doubt about that. And I would say that some would say that this is an outrageous act of piracy on your part that certainly must be met with the full force of at least two or three law firms. And you know their argument, put simply, is that you're building a business on the back of their sound recordings or their publishing rights, or both, and that you have no business engaging in this sort of commerce without their permission, without some kind of licensing. And, you know, whether you agree or disagree with them on this point, their position is that you should tell it to the Judge. That you should defend your rights and that they are, at the bare minimum, going to body check you as if you were in a hockey game, regardless of how it turns out. How do you feel about that?

MICHAEL: Well, EMI did sue us and they sued us over the locker and they went to the court and said I'm a bad guy and, you know, I don't respect the law, and all the things that Jim just said and uh, um. You know what, I think . . . you know, listen. They play mean and nasty. They sued me personally, as a matter of fact. Not just as a company, but sued me personally. That's the way these guys play. You kind of have to expect it, you know, you've been in the game for, you know, ten years. They're very litigious.

But, I should say this, you know, listen, any of the technology that I've ever built, I'm willing to stand up in front of anybody and say this is responsible technology, so let me tell you about the personal locker, how we do it, right? Every locker is password protected, right? The same level of security that your bank uses on-line, right? To protect your money? That's the same level of security I have for your music. If people want to share files, Lord knows there's thousands of ways for them to do that. There's many storage places that encourage anonymous access. You know, that say "hey, you know, put your files here. Go to AOL's X drive, go to Google's storage, go to British Telecoms, the Vault, right on the front page, put your stuff here, share it with anybody, and we won't even ask for user names and passwords. Now, we're the

opposite, right? There is no anonymous access. There's no . . . you have to have a user name and password. In fact, we've gone and done something that no one else in the industry has done. And that is, we have access controls. What I mean by that is that, let's say that I took my user name and password and I post it to the biggest mailing list I can. And everyone logs in. Our system looks at simultaneous accesses. It's the only storage facility I know in the world that does that. And if we see too many people accessing a locker, we immediately shut the locker off. You know, so, we've done that since day one.

We're a responsible business, and I see how the music industry feels threatened. But, this is not a threat. What it is, is a totally new sector of the industry. Right? What am I selling? I'm not selling the music. You have to go get the music from wherever you get it from. I'm selling you the delivery of the music and the distribution of it. And that is something that the music industry looks at and says, their perspective is, we sell music. And so, when you talk about the delivery of music, they look at that as a replacement for a sale, and not as a new, a new sector of an industry.

JIM: Well, I mean, they might not say they sell music. They might say they license music. I think that the difference to the finely tuned ear was the difference between when I said they think you're building a business on the back of their music and then you referred to helping people manage their music. So, I think the question, really at the center of it here, I think you'd agree, is whose music is it after the purchase or the license has been issued'.

MICHAEL: That's right. That's right.

JIM: Is it still the rights-holder's music and subject to some kind of control by them or is it now the music of the individual who downloaded it first or streamed it first?

MICHAEL: No, it's a great question. And it's going to be decided in either a San Diego court or a New York court. You know, our position is it's Jim's music and Jim has the right to move it on any device that he so chooses and, by extension, my company is, if we're assisting him, then that's okay, too. We use as our defense the DMCA, The Digital Millennium Copyright Act, which states that if you're storing the file at the request of the user, then you're generally immune from copyright claims as long as you do it in a responsible way. I mean, that's what it says, right . . . if you're storing the file at the request of the user. That's exactly what MP3tunes does, right? We store the file at the request of the user. When you open a locker, there's no music in it. You have to go and get that music file and say store this for me. But, obviously, they see it differently. But it's an important issue, right?

JIM: Oh, yeah.

MICHAEL: Because if you can't deal with music, if you can't buy a piece of music and listen to it anywhere, well then you can't buy a movie and listen anywhere. You can't buy an e-book and listen to it anywhere. Then there's really . . . the whole notion of ownership in the digital age evaporates. Right? Because if EMI says, hey you can buy an MP3, and isn't it great because it never times out and it works anywhere. Oh, but if you actually try to make it work anywhere, well, then they're going to sue any company assists you, and maybe we'll sue you,

too. Right now, we are in the discovery phase of the lawsuit, right? Where both sides have to turn over evidence, and they have said we want a copy of every file that's in every locker for MP3tunes. We have 120,000 lockers and we said, no. Hey, listen, I don't have the right to show you what's in someone's locker, just like a bank doesn't have the right to show the FBI what's in every safe deposit box in their vault, just because they demand to. It's not our property. It's the user's property. So I think there's some fundamental questions here that are really important in the digital age.

JIM: Would you build something that helped me do the same with my streams--audio TIVO of sorts? I mean, devastating in its impact on the industry, but arguably legal if a regular TIVO is legal.

MICHAEL: Right. I mean, I think that the reason . . . listen, we don't do that, but I think that's a digital inevitability, you know. Why doesn't . . . why isn't there a pause button on my car radio. Please somebody, you know, put 14¢ of memory in that thing and let me pause radio. I mean, it's crazy.

JIM: And yet, that's a short skip and a jump to, I go to lunch and I come back and those 20 tracks I'm looking for are now waiting to permanently store it in my vehicle's hard drive.

MICHAEL: Right. And that's a digital inevitability and the industry has to get their arms around that and figure out how they can channel that in a positive direction.

JIM: I notice Mitsubishi now advertises a vehicle with a 30 gig hard drive with the tag line, "You'll never have to put in the same CD twice."

MICHAEL: Right. Right.

JIM: Not that different from say your locker service.

MICHAEL: Right. And just for proof here, can you here that? "White Wedding." (music in background). It's real.

JIM: Now, Michael, I think the last thing, you know, because we are running short on time and we have exhausted our 30 minutes, but where can the audience expect to see you go in the future?

MICHAEL: Well, I think, you know, a lot is going to hinge on this lawsuit, right? I mean, this is a very critically important lawsuit. If we lose, then the whole notion of digital storage goes away. So, I'm hoping that we win. I think the locker makes it way into cars, makes its way into phones. This is a device from Nokia. It's not a traditional phone. But by the end of the year, we will have the same syncing software that you saw just today on mobile phones, right? So your mobile phone which you can have a 5 gig memory stick in it or whatever, will have your music. So any device that you get that has speakers and Internet connection, you know, you'll have your music on it.

JIM: If anyone here has an idea and wants to get in touch with you, how can they write you an email?

MICHAEL: Michael@mp3tunes. It all gets there. I read it.

JIM: Michael@mp3tunes.com?

MICHAEL: That's right. And I hope you all have music lockers. Go ahead and get a music locker. They're free, unlimited storage. And see how that's developing. Because it really is, I think, going to be a critical part of how music operates in the future.

JIM: Well, it's been all too brief a discussion, but I have a feeling the audience knows you a little better now and has a sense of where you've come from and where you're headed and I appreciate you taking the half hour to share with these people here and with me. Thanks a lot.

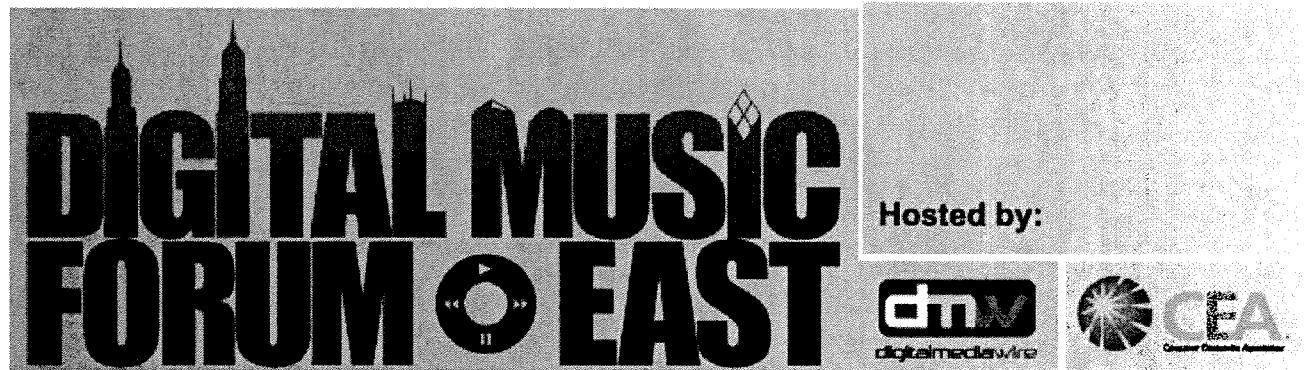
MICHAEL: Thanks, Jim.

(applause)

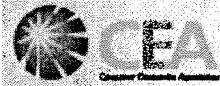
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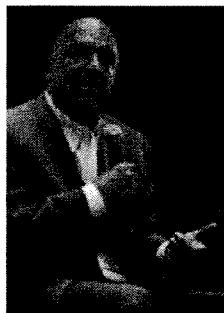
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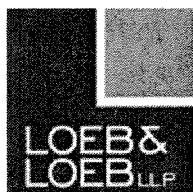


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Michael Robertson
Founder & CEO, MP3tunes
Founder, MP3.com



Brad Duea
President
Napster



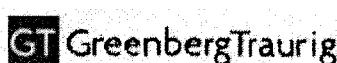
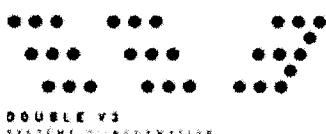
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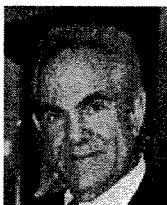
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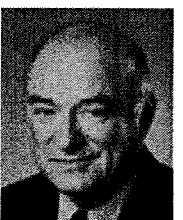
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Jim Griffin
Managing Director, OneHouse LLC
Co-Founder, Pho Group



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Matt Schwartz
Manager, Music Programming
& Business Development
Verizon Wireless

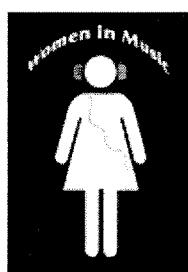
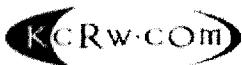


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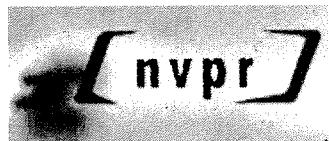
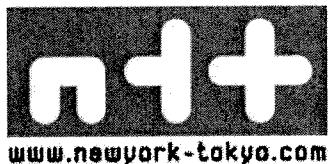
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Maria Egan-Cohen
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Testimonials:

" We should all thank the folks at Digital Media Wire for putting on these forums and keeping us informed through their daily email newsletter. When I read the daily newsletter and attend these events, I have begun to form the conclusion that we may actually be an industry. "

- Chris Gorog
Chairman and CEO, Napster

" DMW conferences are great opportunities to meet new companies and hear about new opportunities. I recommend them highly. "

- Jonathan Potter
Executive Director, Digital Media Association

" I just wanted to say thanks for a great event. If you ever need us again, please let me know. Congrats on everything. "

- Leah Arnold
Communications Manager,
Consumer Electronics
Association (CEA)

" It was a wonderful event. "

- Sarah B. Deutsch
Vice President & Associate
General Counsel, Verizon
Communications

" Please let me know if you have anything that AOL Music or I can do for other events. "

- Mike Rich
AOL Music

" I enjoyed it and hope to be working with you in the future. "

- Elliot Maxwell
Special Advisor for the Digital
Economy, U.S. Secretary of
Commerce (1998-2001)



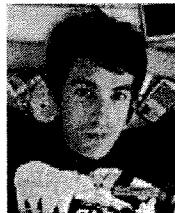
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AOL Entertainment &
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" Very good conference - diverse participants, meaty discussion."

- **Tolman Geffs**

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- **NY1 News**

" I was thoroughly impressed with Digital Media Wire and the logistical expertise you and your team displayed in executing a successful event. I believe the forum was very informative and afforded everyone in attendance the opportunity to express new ideas about the future of entertainment. I look forward to working with you and your company in the future, and please do not hesitate to call me if I can be of assistance to you."

- **Michael Gravley**

Governor's Film & Entertainment Industry Liaison, The State of Georgia

" It was a pleasure speaking at your show. Please keep QUALCOMM in mind for future events."

- **Mike Yuen**

Senior Director, Games, QUALCOMM

" Fantastic event..."

- **Matt J. Railo**

Partner, Mitchell Silberberg & Knupp LLP

" I enjoyed the event and appreciated the opportunity to speak."

- **Thomas Gewecke**

SVP, Global Digital Business, Sony BMG Music

" I had a lot of fun on the panel and thoroughly enjoyed the event."

- **Thomas Ryan**

SVP, Digital & Mobile Strategy and Development EMI Music

" Great conference and great attendance!"

- **Brad Duea**

President, Napster

" While some of the other conferences in this space may have more 'bling', they don't have the opportunity for meaningful networking like DMF is able to orchestrate."



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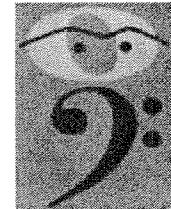


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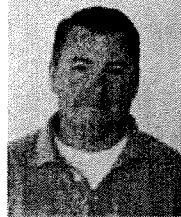
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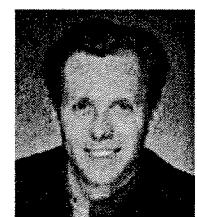
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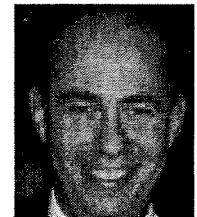
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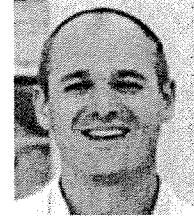
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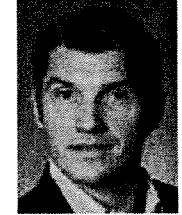
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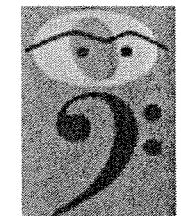
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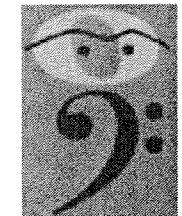
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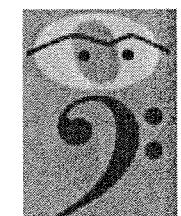
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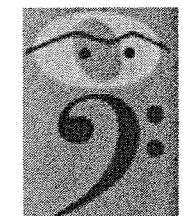
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Glenn Otis Brown
Strategic Partner Developer
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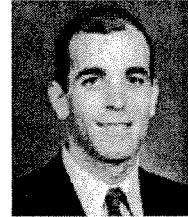
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Founder/President
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DAY 1 – Tuesday, February 26

11:00am – 1:00pm
Exhibitor Set-up

1:00pm – 1:30pm
Registration

1:30pm – 1:45pm
Welcome, Introductions & Opening Remarks

Ned Sherman, CEO & Publisher, **Digital Media Wire**
Ted Cohen, Managing Partner, **TAG Strategic / Chairman, Mobile Entertainment Forum Americas**

1:45pm – 2:45pm
PANEL 1: The State of the Digital Union

This panel of industry experts will discuss the hot button issues of day, including the debate over digital music pricing, ad-supported music models, online and mobile music product offerings and business models, next generation devices and the future of digital rights management. What is the current state of the online and mobile music markets and where is the industry heading?

Panelists

Brad Duea, President, **Napster**

Greg Scholl, CEO, **The Orchard**

Mike Rich, SVP & GM, **AOL Entertainment and AOL Black Voices**

David Del Beccaro, Founder & President, **Music Choice**

Ted Mico, Head of Digital, **Interscope Geffen A&M**

Glenn Otis Brown, Strategic Partner Developer, **YouTube**

Moderator: Ted Cohen, Managing Partner, **TAG Strategic / Chairman, MEF**

Americas

2:45pm – 3:45pm

PANEL 2: Social Networking & Music Discovery: What It All Means for Music Businesses

Talk about the future of music these days and the discussion often turns to names like MySpace, YouTube, Facebook, imeem, Bebo, Pandora, iLike, Last.fm and others in the social networking and online music discovery space. Hard to remember that these are companies who didn't exist until just a few years ago. What are these companies doing vis-a-vis music? Who is benefiting from services like these? How is the popularity of these services impacting traditional radio? What are the legal challenges facing online services? Are social networking and online music discovery a revolution with lasting effects on the music industry or a passing fad? These experts will consider what role social networking and music discovery services will play in the future of the music business.

Panelists

Mark Fischer, Attorney, **Fish & Richardson**

Steve Jang, CMO & Head of Business Development, **imeem**

Benjamin Masse, President & Founder, **Double V3**

Ali Partovi, CEO, **iLike**

Maria Thomas, SVP, **NPR Digital Media**

Navarrow Wright, President & CEO, **Global Grind**

Moderator: Eric Garland, CEO, **BigChampagne**

3:45pm – 4:15pm

NETWORKING BREAK

4:15pm – 5:15pm

PANEL 3: The Future of Mobile Music

This panel of mobile insiders will discuss the latest developments in the mobile music market, including mobile marketing initiatives, portable devices and other mobile-related innovations and revenue-generating opportunities such as music videos, full-track streaming of music, ring tones and "ringbacks." What mobile innovations are having the greatest impact on the way consumers discover, purchase and listen to music, network with fans and artists, learn about concert information and release dates from their favorite artists and interact during the concert experience? What are the developments that will shape the industry in the years to come?

Panelists

Rachna Bhasin, VP, Business Development, **Dell-ZING**

Dorrian Porter, CEO, **Mozes**

Matt Schwartz, Manager, Music Programming & Business Dev, **Verizon Wireless**

Dave Ulmer, Senior Director, Entertainment Products, **Motorola Media Solutions**

Chris Phenner, SVP, Business Development, **Thumbplay**

Moderator: Aydin Caginalp, Partner, Entertainment & Media Group, **Manatt, Phelps & Phillips, LLP**

5:15pm – 5:45pm

KEYNOTE INTERVIEW

Thomas Hesse, President, Global Digital Business, **Sony BMG Music Entertainment**
Interviewed by: John T. Frankenheimer, Chair, Music Group/Co-Chair, **Loeb & Loeb LLP**

5:45pm – 6:45pm

COCKTAIL RECEPTION hosted by:**Live Music by American Babies****DAY 2 – Wednesday, February 27****9:00am – 9:30am****KEYNOTE INTERVIEW**David Pakman, CEO, **eMusic**Interviewed by: Frank Rose, Contributing Editor, **Wired****9:30am - 10:30am****PANEL 1: Top Digital Media Trends Impacting the Music Business**

This panel of innovators, creators and thought leaders from music, technology and Web 2.0 companies look ahead at what we can expect in technological innovation in the years to come. What trends will have the greatest impact on the future of the music business? How can music businesses plan to capitalize on these developments?

Panelists

Jeff Zakim, Senior Director, E-Commerce & Internet Mktg, **The Blue Note Label Group**

Gerd Leonhard, CEO, **Sonific LLC**

Alan Cohen, VP, Strategic Business Development, **Guitar Center**

Brian Young, SVP, **Fifth Generation Systems**

Syd Schwartz, SVP, Digital Strategy, **Capitol Music Group**

Moderator: David Card, VP, Research & Senior Analyst, **Jupiter Research**

10:30am – 11:00am**NETWORKING BREAK****Sponsored by:****Wilson Sonsini Goodrich & Rosati**

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11:00am – 11:30am
KEYNOTE
Gary Shapiro, CEO & President, CEA

11:30am – 12:30pm
PANEL 2: The Copyright Debate:
Is the System Broken? If So, How Do We Fix It?"

This panel of music and copyright experts will discuss the top legal and policy issues facing the music industry today. Why do so many in the industry feel that the current copyright system does not fairly protect their interests? What needs to happen so that artists can live off their creativity, labels and publishers can see a fair return on their investments, technology companies have an incentive to innovate and receive a fair share of the pie and music fans can satisfy their current hunger for and exploration of new and/or alternative music?

Panelists
David Israelite, President & CEO, National Music Publishers Association
Steve Marks, EVP & General Counsel, RIAA
Jonathan Potter, Executive Director, Digital Media Association
Michael Petricone, SVP, Government Affairs, Consumer Electronics Association
Moderator: Gary Greenstein, Of Counsel, Wilson Sonsini Goodrich & Rosati

12:30pm – 2:00pm
LUNCH BREAK

2:00pm – 2:30pm
KEYNOTE INTERVIEW
Michael Robertson, Founder & CEO, MP3tunes / Founder, MP3.com
Interviewed by: Jim Griffin, Managing Director, OneHouse LLC / Co-Founder, Pho Group

2:30pm – 3:20pm · TRACK 1
PANEL 3:

Global Music Marketing in the Digital Age
Technology has created new opportunities and challenges for artists and labels to market their music and promote and sell music and tours. Successful worldwide interactive marketing efforts now require a deep understanding of web site analytics, email and mobile marketing, social networks and online communities, e-commerce, search engine marketing and web site optimization. This panel will discuss global marketing in the digital age with a focus on how to utilize digital tools to better connect with fans and promote, produce and create new revenue opportunities for artists and labels.

Panelists
John Fleckenstein, SVP of International, BMG Label Group
Mark Ghuneim, CEO, WiredSet
Peter Rojas, CEO & Co-Founder, RCRD LBL
Shahi Ghanem, CEO & President, Brickfish
Doug Perlson, CEO, TargetSpot
Vicki Saunders, Director, Music Marketing & Promotions, TouchTunes Music
Moderator: Celia Hirschman, Host, KCRW's On The Beat

2:30pm – 3:20pm · TRACK 2
PANEL 3: The Kids Are Alright:
The Tween, Teen & College Market for Music

If you've been following the news for the past five years, you'd assume that the tween, teen and college market for music is all but dead, with digital "sharing" killing CD sales and turning the music industry upside down. But research on the spending and consumption habits of Millennials (those born between 1982 and 2000) suggests otherwise. In fact, this generation is spending more on entertainment and digital devices than any generation to precede it. The problem or opportunity, depending on how you look at it, is that they are spending and consuming differently than past generations. This

panel will discuss the media consumption habits of Millennials and the opportunity for savvy music businesses and consumer marketers to reach them.

Panelists

Jim Donio, President, **National Association of Recording Merchandisers (NARM)**

Mike Bebel, President & CEO, **Ruckus Entertainment, Inc.**

Edith Bellingshausen, SVP, New Media, **Razor & Tie / Kidz Bop**

Matt Mason, Author-**The Pirate's Dilemma: How Youth Culture Reinvented Capitalism**

Bobby Rosenbloum, Shareholder, Co-Chair, Ent. Practice - ATL; Int. Property & Tech.; Tech., Media & Telecom, Greenberg Traurig, LLP

Moderator: Aram Sinnreich, Co-Founder & Managing Partner, **Radar Research**

3:20pm – 3:50pm

NETWORKING BREAK

Sponsored by:



3:50pm – 4:40pm · TRACK 1

PANEL 4: Digital Rights and Clearances for Music

Far too often digital music deals get done only to be held up by complicated and time-consuming rights clearance processes. This panel of experts will discuss rights clearance issues for digital music licenses. What are some of the common problems and how can they be avoided?

Panelists

Ray Farrell, SVP, Business Development & Label Relations, **RoyaltyShare, Inc.**

Cecily Mak, Sr. Counsel, Legal & Business Affairs, **RealNetworks**

Maurice Russell, VP, Licensing & Label Relations, **The Harry Fox Agency**

Julie Florida, Attorney, Ent. & Devices, Legal & Corporate Affairs, **Microsoft**

Moderator: Robert Driscoll, Partner, **Davis Wright Tremaine, LLP**

3:50pm – 4:40pm · TRACK 2

PANEL 4: A&R in the Digital Age

A&R is fundamentally changing and the changes are happening fast. There is a growing awareness that labels need to have a digital and mobile strategy that connects with A&R to succeed today. This panel of A&R executives, artist reps and digital execs discuss the future of A&R. What innovative techniques are being used by creative A&R execs that are changing the A&R landscape? How do new technologies affect the A&R process? Do the Internet and digital technologies give artists a better chance to be heard by A&R executives and music supervisors while simultaneously building a fan base?

Panelists

Maria Egan-Cohen, A&R, **Columbia Records**

Daniel Werner, A&R, **Epic Records**

Elliot Mazer, Multi-Platinum Producer/Engineer/ Founder, **Left Turn Music**

Benjamin Campbell, CEO, **OurStage, Inc.**

Allen Kovac, Founder & President, **Tenth Street Entertainment**

Moderator: Kelli Richards, President & CEO, **The All Access Group**

4:40pm – 5:30pm · TRACK 1

PANEL 5:

The Indie Takeover?

The independent share of the global music market has been steadily increasing over the past few years due in great part to the increase of digital distribution and the availability of low cost digital tools for music production, marketing and promotion. This panel will discuss the role of the Internet, mobile and digital technologies in the growth and future of the independent sector. What are the pros and cons of being an indie in today's market?

Panelists

Jim Cooperman, COO, **Wind-up Records**
Amaechi Uzoigwe, Co-founder, **Definitive Jux**
Jaylaan Ahmad-Llewellyn, Owner, **Bluhammock Music**
Mitchell Wolk, EVP, **ADA**
Matt Laszuk, President, **IRIS Distribution**
Moderator: Rich Bengloff, President, **A2IM**

4:40pm – 5:30pm · TRACK 2

What's Next for the World's First Free and Legal P2P Music Service?

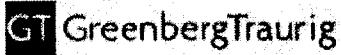
QTRAX's high-visibility launch at Midem raised expectations of an enormous breakthrough for digital music distribution. It also raised some very fundamental questions. Is the music industry ready to allow an ad-supported P2P music service to exist? Will consumer acceptance demonstrate that this is an effective antidote against piracy? Can the service's implementation live up to its leaders' ambitious vision? In this no holds-barred session with the senior executive of QTRAX, attendees will find out what happened and why at QTRAX's launch, as well as what's next for this boldly conceived enterprise.

INTERVIEW

Allan Klepfisz, Chairman & CEO, **QTRAX**
Interviewed by: Marty Lafferty, CEO, **DCIA**

5:30pm – 6:30pm

COCKTAIL RECEPTION hosted by:
TAG Strategic

S T R A T E G I C
and
GreenbergTraurig


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EXHIBIT 23

DUANE MORRIS LLP

Gregory P. Gulia
1540 Broadway
New York, NY 10036-4086
Telephone: 212.692.1000

and

Edward M. Cramp (pro hac vice)
Michelle Hon (pro hac vice)
101 West Broadway, Suite 900
San Diego, CA 92101-8285
Telephone: 619.744.2200

Attorneys for Defendants
MP3TUNES, LLC and
MICHAEL ROBERTSON

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

CAPITOL RECORDS, INC.; CAROLINE)
RECORDS, INC.; EMI CHRISTIAN)
MUSIC GROUP INC.; PRIORITY RECORDS)
LLC; VIRGIN RECORDS AMERICA, INC.;)
BEECHWOOD MUSIC CORP.;)
COLGEMS-EMI MUSIC INC.; EMI APRIL)
MUSIC INC.; EMI BLACKWOOD MUSIC;)
EMI FULL KEEL MUSIC; EMI GOLDEN)
TORCH MUSIC CORP.; EMI LONGITUDE)
MUSIC; EMI VIRGIN MUSIC, INC.;)
EMI VIRGIN SONGS, INC.,)
Plaintiffs,)
v.)
MP3TUNES, LLC AND MICHAEL)
ROBERTSON)
Defendants.)

No. 07 Civ. 9931 (WHP)

**STIPULATION REGARDING
MP3TUNES' REVENUE FROM
INTERSTATE AND
INTERNATIONAL COMMERCE**

STIPULATION

WHEREAS MP3tunes contests the power of the U.S. District Court for the Southern District of New York to assert jurisdiction over it; and

WHEREAS in seeking to establish that the Court has jurisdiction over MP3tunes, EMI may seek to prove that MP3tunes derives substantial revenue from interstate and international commerce within the meaning of N.Y. C.P.L.R. § 302(a)(3)(ii); and

WHEREAS MP3tunes does not contest that it derives substantial revenue from interstate and international commerce within the meaning of N.Y. C.P.L.R. § 302(a)(3)(ii);

THEREFORE, MP3tunes stipulates as follows:

1. MP3tunes acknowledges and will not contest that it derives substantial revenue from interstate and international commerce within the meaning of N.Y. C.P.L.R. § 302(a)(3)(ii).

Dated: February 11, 2008

Respectfully submitted,

DUANE MORRIS LLP

By: 

Gregory P. Gulia
DUANE MORRIS LLP
1540 Broadway
New York, NY 10036-4086
Telephone: 212.692.1000
gpgulia@duanemorris.com

Attorneys for Defendants

EXHIBIT 24

----- Original Message -----

Subject:Re: FIRST NOTICE OF INFRINGEMENT AND DECLARATION: WARNER BROS.
RECORDS, INC. - Damien Rice [sideload.com]
Date:Wed, 29 Aug 2007 20:55:21 -0400
From:Dorothy Sherman | GrayZone, Inc. <grayzone@grayzone.com>
Reply-To:Dorothy Sherman | GrayZone, Inc. <grayzone@grayzone.com>
To:Emily Richards <emily.richards@mp3tunes.com>
References:<46D6145A.8090108@mp3tunes.com>

Thank you Emily.

Best regards,

Dorothy Sherman
President
GrayZone, Inc.

----- Original Message -----

From: "Emily Richards" <emily.richards@mp3tunes.com>
To: "Dorothy Sherman | GrayZone, Inc." <grayzone@grayzone.com>
Sent: Wednesday, August 29, 2007 8:50 PM
Subject: Re: FIRST NOTICE OF INFRINGEMENT AND DECLARATION: WARNER BROS.
RECORDS, INC. - Damien Rice [sideload.com]

> Dorothy,
>
> Thank you for your email. In accordance with our takedown policy, the
> links you referenced have been removed. Please note, however, Sideload.com
> is a user-populated index and does not host these files. You may want to
> contact each website where the files are hosted and listed to have them
> removed.
>
> Best regards,
>
> ~Emily Richards
> President, MP3tunes
>
>
> Dorothy Sherman | GrayZone, Inc. wrote:
>

REDACTED

----- Original Message -----

Subject: Re: [Fwd: [~EVB-775758]: [ABUSE] FIRST NOTICE OF INFRINGEMENT AND DECLARATION: ATLANTIC RECORDS GROUP | BLOC PARTY [sideload.com] (Sideload.com)]

Date: Fri, 8 Dec 2006 12:05:58 -0800

From: Doug Reese <doug@mp3tunes.com>

To: Emily Richards <emily@mp3tunes.com>

References: <4579A0A6.3030404@mp3tunes.com>

The files are gone.

dr

On Dec 8, 2006, at 9:28 AM, Emily Richards wrote:

Dorothy,

Thank you for your email and Notice. It has been successfully received and submitted to our Take Down department. Please note Sideload.com does not host the files you reference but functions as an index, like Google or Yahoo. For example, one of the files you reference is hosted here <http://www.stereogum.com/archives/002982.html>. You may wish to contact them.

Please feel free to email me with questions.

Best regards,

~Emily

Emily Richards
President, MP3tunes LLC

REDACTED

----- Original Message -----

Subject: [~EVB-775758]: [ABUSE] FIRST NOTICE OF INFRINGEMENT AND DECLARATION: ATLANTIC RECORDS GROUP | BLOC PARTY

[sideload.com] (Sideload.com)
Date:Fri, 08 Dec 2006 09:20:27 -0800
From:MP3tunes Help <sharmainel@mp3tunes.com>
Reply-To:sharmainel@mp3tunes.com
To:emilyr@mp3tunes.com

submitted today.

grayzone@grayzone.com Posted on 06 Dec 2006 10:20 AM

===== PLEASE REMOVE THE FOLLOWING LINKS TO UNRELEASED MATERIAL FROM THE ARTISTS BLOC
=====
Notice of Infringement and Declaration

TO:
SIDELOAD.COM
MP3tunes, LLC
5960 Cornerstone Court West
First Floor
San Diego, CA 92121
(submitted at website)

NTT America, Inc.
8005 South Chester Street
Suite 200
Centennial, CO 80112
Phone: +1-800-551-1630
abuse@ntt.net
support@us.ntt.net
vipar@us.ntt.net

REGARDING: <http://www.sideload.com>

IMMEDIATELY REMOVE ALL LINKS, REFERENCES, TORRENTS, TRACKERS, SEEDERS AND
MP3 FILES ASSOCIATED WITH BLOC PARTY's UNRELEASED ALBUM "A WEEKEND IN THE
CITY":

SONG FOR CLAY
<http://www.sideload.com/cb/track/?id=126741>
<http://www.sideload.com/cb/track/?id=127231>
<http://www.sideload.com/cb/track/?id=122666>

UNIFORM
<http://www.sideload.com/cb/track/?id=106280>
<http://www.sideload.com/cb/track/?id=87050>

WAITING FOR THE 7:18
<http://www.sideload.com/cb/track/?id=106260>
<http://www.sideload.com/cb/track/?id=87046>
<http://www.sideload.com/cb/track/?id=116554>
<http://www.sideload.com/cb/track/?id=110793>

If you do not comply with this demand immediately, we will seek whatever
remedies are available to us under the United States Copyright law, the

Lanham Act and any applicable international laws or treaties.

ATLANTIC RECORDS GROUP

I, the undersigned, do solemnly and sincerely declare and CERTIFY UNDER PENALTY OF PERJURY that:

1. I am the owner or an agent authorized to act on behalf of the owner of certain intellectual property rights, said owner being named ATLANTIC RECORDS GROUP ("IP Owner").

2. I have a good faith belief that the materials identified in the addendum attached hereto are not authorized by the above IP Owner, its agent, or the law and therefore infringe the IP Owner's rights according to the laws of the (check all that apply):

United States X
Australia
Brazil
Canada
EUR
France
Germany
Italy
Japan
Netherlands
Russia
United Kingdom
All of the above X

Please act expeditiously to remove or disable access to the material or items claimed to be infringing.

3. I may be contacted at:

Printed Name: Dorothy Sherman
Title: Consultant
Company: Atlantic Records Group
Address: 1290 Avenue of the Americas
New York, NY 10104

Email (correspondence): GrayZone@grayzone.com

www.grayzone.com

Telephone: 212 946-1718

Fax: 718 552-3028

You should understand that this letter constitutes notice to you that the sale and/or other distribution of this product is unauthorized. This letter does not constitute a waiver of any right to recover damages incurred by virtue of any such unauthorized activities, and such rights as well as claims for other relief are expressly retained.

Finally, notwithstanding our use of the required notice form, we believe that sideload.com 's activities and services fall outside the scope of the Digital Millennium Copyright Act ("DMCA"). Our use of this form, as required by law, is meant to facilitate sideload.com 's removal of the infringing product listed above and is not meant to suggest or imply that sideload.com 's activities and services are within the scope of the DMCA.

I make this declaration conscientiously, believing it to be true and correct, and in accordance with the laws of each of the countries listed above. I am aware and agree that the contents of this statement may be relied upon against me in any court or arbitration proceeding.

Truthfully,

Dorothy Sherman
Digital Signature: Verisign

Date: 5 DECEMBER 2006

SONG FOR CLAY

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<http://www.sideload.com/cb/track/?id=127231>
<http://www.sideload.com/cb/track/?id=122666>

UNIFORM

<http://www.sideload.com/cb/track/?id=106280>
<http://www.sideload.com/cb/track/?id=87050>

WAITING FOR THE 7:18

<http://www.sideload.com/cb/track/?id=106260>
<http://www.sideload.com/cb/track/?id=87046>
<http://www.sideload.com/cb/track/?id=116554>
<http://www.sideload.com/cb/track/?id=110793>

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=====

Douglas Kassem | GrayZone, Inc. Posted on 08 Dec 2006 09:15 AM

=====
PLEASE REMOVE THE FOLLOWING LINKS TO UNRELEASED MATERIAL FROM THE ARTISTS BLOC PARTY:

=====
Second Notice of Infringement and Declaration

TO:
SIDELOAD.COM
MP3tunes, LLC
5960 Cornerstone Court West
First Floor
San Diego, CA 92121
(submitted at website)

NTT America, Inc.
8005 South Chester Street
Suite 200

Centennial, CO 80112
Phone: +1-800-551-1630
abuse@ntt.net
support@us.ntt.net
vipar@us.ntt.net

REGARDING: <http://www.sideload.com>

IMMEDIATELY REMOVE ALL LINKS, REFERENCES, TORRENTS, TRACKERS, SEEDERS AND MP3 FILES ASSOCIATED WITH BLOC PARTY's UNRELEASED ALBUM "A WEEKEND IN THE CITY":

SONG FOR CLAY

<http://www.sideload.com/cb/track/?id=126741>
<http://www.sideload.com/cb/track/?id=127231>
<http://www.sideload.com/cb/track/?id=122666>

UNIFORM

<http://www.sideload.com/cb/track/?id=106280>
<http://www.sideload.com/cb/track/?id=87050>

WAITING FOR THE 7:18

<http://www.sideload.com/cb/track/?id=106260>
<http://www.sideload.com/cb/track/?id=87046>
<http://www.sideload.com/cb/track/?id=116554>
<http://www.sideload.com/cb/track/?id=110793>

If you do not comply with this demand immediately, we will seek whatever remedies are available to us under the United States Copyright law, the Lanham Act and any applicable international laws or treaties.

ATLANTIC RECORDS GROUP

I, the undersigned, do solemnly and sincerely declare and CERTIFY UNDER PENALTY OF PERJURY that:

1. I am the owner or an agent authorized to act on behalf of the owner of certain intellectual property rights, said owner being named ATLANTIC RECORDS GROUP ("IP Owner").
2. I have a good faith belief that the materials identified in the addendum attached hereto are not authorized by the above IP Owner, its agent, or the law and therefore infringe the IP Owner's rights according to the laws of the (check all that apply):

United States X
Australia
Brazil
Canada
EUR
France
Germany
Italy
Japan
Netherlands
Russia

United Kingdom
All of the above X

Please act expeditiously to remove or disable access to the material or items claimed to be infringing.

3. I may be contacted at:

Printed Name: Dorothy Sherman
Title: Consultant
Company: Atlantic Records Group
Address: 1290 Avenue of the Americas
New York, NY 10104

Email (correspondence): GrayZone@grayzone.com

www.grayzone.com

Telephone: 212 946-1718

Fax: 718 552-3028

You should understand that this letter constitutes notice to you that the sale and/or other distribution of this product is unauthorized. This letter does not constitute a waiver of any right to recover damages incurred by virtue of any such unauthorized activities, and such rights as well as claims for other relief are expressly retained.

Finally, notwithstanding our use of the required notice form, we believe that sideload.com 's activities and services fall outside the scope of the Digital Millennium Copyright Act ("DMCA"). Our use of this form, as required by law, is meant to facilitate sideload.com 's removal of the infringing product listed above and is not meant to suggest or imply that sideload.com 's activities and services are within the scope of the DMCA.

I make this declaration conscientiously, believing it to be true and correct, and in accordance with the laws of each of the countries listed above. I am aware and agree that the contents of this statement may be relied upon against me in any court or arbitration proceeding.

Truthfully,

Dorothy Sherman
Digital Signature: Verisign

Date: 8 DECEMBER 2006

SONG FOR CLAY

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<http://www.sideload.com/cb/track/?id=127231>
<http://www.sideload.com/cb/track/?id=122666>

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<http://www.sideload.com/cb/track/?id=110793>

=====
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=====

grayzone@grayzone.com Posted on 08 Dec 2006 09:20 AM
=====

PLEASE REMOVE THE FOLLOWING LINKS TO UNRELEASED MATERIAL FROM THE ARTISTS BLOC PARTY:
=====

Second Notice of Infringement and Declaration

TO:
SIDELOAD.COM
MP3tunes, LLC
5960 Cornerstone Court West
First Floor
San Diego, CA 92121
(submitted at website)

NTT America, Inc.
8005 South Chester Street
Suite 200
Centennial, CO 80112
Phone: +1-800-551-1630
abuse@ntt.net
support@us.ntt.net
vipar@us.ntt.net

REGARDING: <http://www.sideload.com>

IMMEDIATELY REMOVE ALL LINKS, REFERENCES, TORRENTS, TRACKERS, SEEDERS AND MP3 FILES ASSOCIATED WITH BLOC PARTY'S UNRELEASED ALBUM "A WEEKEND IN THE CITY":

SONG FOR CLAY
<http://www.sideload.com/cb/track/?id=126741>
<http://www.sideload.com/cb/track/?id=127231>
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<http://www.sideload.com/cb/track/?id=116554>
<http://www.sideload.com/cb/track/?id=110793>

If you do not comply with this demand immediately, we will seek whatever remedies are available to us under the United States Copyright law, the Lanham Act and any applicable international laws or treaties.

ATLANTIC RECORDS GROUP

I, the undersigned, do solemnly and sincerely declare and CERTIFY UNDER PENALTY OF PERJURY that:

1. I am the owner or an agent authorized to act on behalf of the owner of certain intellectual property rights, said owner being named ATLANTIC RECORDS GROUP ("IP Owner").
2. I have a good faith belief that the materials identified in the addendum attached hereto are not authorized by the above IP Owner, its agent, or the law and therefore infringe the IP Owner's rights according to the laws of the (check all that apply):

United States X
Australia
Brazil
Canada
EUR
France
Germany
Italy
Japan
Netherlands
Russia
United Kingdom
All of the above X

Please act expeditiously to remove or disable access to the material or items claimed to be infringing.

3. I may be contacted at:

Printed Name: Dorothy Sherman
Title: Consultant
Company: Atlantic Records Group
Address: 1290 Avenue of the Americas
New York, NY 10104

Email (correspondence): GrayZone@grayzone.com
www.grayzone.com

Telephone: 212 946-1718
Fax: 718 552-3028

You should understand that this letter constitutes notice to you that the sale and/or other distribution of this product is unauthorized. This letter does not constitute a waiver of any right to recover damages incurred by virtue of any such unauthorized activities, and such rights as well as claims for other relief are expressly retained.

Finally, notwithstanding our use of the required notice form, we believe that sideload.com's activities and services fall outside the scope of

the Digital Millennium Copyright Act ("DMCA"). Our use of this form, as required by law, is meant to facilitate sideload.com 's removal of the infringing product listed above and is not meant to suggest or imply that sideload.com 's activities and services are within the scope of the DMCA.

I make this declaration conscientiously, believing it to be true and correct, and in accordance with the laws of each of the countries listed above. I am aware and agree that the contents of this statement may be relied upon against me in any court or arbitration proceeding.

Truthfully,

Dorothy Sherman
Digital Signature: Verisign

Date: 8 DECEMBER 2006

SONG FOR CLAY

<http://www.sideload.com/cb/track/?id=126741>
<http://www.sideload.com/cb/track/?id=127231>
<http://www.sideload.com/cb/track/?id=122666>

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<http://www.sideload.com/cb/track/?id=110793>

=====
CONFIDENTIALITY NOTICE: This e-mail message, and any attachments thereto, is for the sole use of the intended recipient(s) and may contain legally privileged and/or confidential information. Any unauthorized review, use, disclosure or distribution is strictly prohibited. If you are not the intended recipient, please contact the sender by reply email and permanently delete all copies of the original message.
=====

Ticket Details

=====

Ticket ID: EVB-775758

Department: Technical Support

Priority: New Ticket

Status: Replied

EXHIBIT 25

Begin forwarded message:

From: Doug Reese <doug@mp3tunes.com>
Date: December 8, 2006 12:05:58 PM PST
To: Emily Richards <emily@mp3tunes.com>
Subject: Re: [Fwd: [~EVB-775758]: [ABUSE] FIRST NOTICE OF INFRINGEMENT AND DECLARATION: ATLANTIC RECORDS GROUP | BLOC PARTY [sideload.com] (Sideload.com)]

The files are gone.

dr

On Dec 8, 2006, at 9:28 AM, Emily Richards wrote:

Dorothy,

Thank you for your email and Notice. It has been successfully received and submitted to our Take Down department. Please note Sideload.com does not host the files you reference but functions as an index, like Google or Yahoo. For example, one of the files you reference is hosted here <http://www.stereogum.com/archives/002982.html>. You may wish to contact them.

Please feel free to email me with questions.

Best regards,

~Emily

Emily Richards
President, MP3tunes LLC

----- Original Message -----

Subject:[~EVB-775758]: [ABUSE] FIRST NOTICE OF INFRINGEMENT
AND DECLARATION: ATLANTIC RECORDS GROUP | BLOC
PARTY [sideload.com] (Sideload.com)
Date:Fri, 08 Dec 2006 09:20:27 -0800
From:MP3tunes Help <sharmainel@mp3tunes.com>
To:emilyr@mp3tunes.com

submitted today.

grayzone@grayzone.com Posted on 06 Dec 2006 10:20 AM

=====

=

PLEASE REMOVE THE FOLLOWING LINKS TO UNRELEASED MATERIAL FROM
THE ARTISTS BLOC PARTY:

=====

Notice of Infringement and Declaration

TO:
SIDELOAD.COM
MP3tunes, LLC
5960 Cornerstone Court West
First Floor
San Diego, CA 92121
(submitted at website)

NTT America, Inc.
8005 South Chester Street
Suite 200
Centennial, CO 80112
Phone: +1-800-551-1630
abuse@ntt.net
support@us.ntt.net
vipar@us.ntt.net

REGARDING: <http://www.sideload.com>

IMMEDIATELY REMOVE ALL LINKS, REFERENCES, TORRENTS, TRACKERS,
SEEDERS AND
MP3 FILES ASSOCIATED WITH BLOC PARTY's UNRELEASED ALBUM "A
WEEKEND IN THE
CITY":

SONG FOR CLAY

<http://www.sideloadcom/cb/track/?id=126741>
<http://www.sideloadcom/cb/track/?id=127231>
<http://www.sideloadcom/cb/track/?id=122666>

UNIFORM

<http://www.sideloadcom/cb/track/?id=106280>
<http://www.sideload.com/cb/track/?id=87050>

WAITING FOR THE 7:18

<http://www.sideloadcom/cb/track/?id=106260>
<http://www.sideload.com/cb/track/?id=87046>
<http://www.sideloadcom/cb/track/?id=116554>
<http://www.sideloadcom/cb/track/?id=110793>

If you do not comply with this demand immediately, we will seek whatever remedies are available to us under the United States Copyright law, the Lanham Act and any applicable international laws or treaties.

ATLANTIC RECORDS GROUP

I, the undersigned, do solemnly and sincerely declare and CERTIFY UNDER PENALTY OF PERJURY that:

1. I am the owner or an agent authorized to act on behalf of the owner of certain intellectual property rights, said owner being named ATLANTIC RECORDS GROUP ("IP Owner").
2. I have a good faith belief that the materials identified in the addendum attached hereto are not authorized by the above IP Owner, its agent, or the law and therefore infringe the IP Owner's rights according to the laws of the (check all that apply):

United States X

Australia

Brazil

Canada

EUR

France

Germany

Italy

Japan

Netherlands

Russia

United Kingdom

All of the above X

Please act expeditiously to remove or disable access to the

material or
items claimed to be infringing.

3. I may be contacted at:

Printed Name: Dorothy Sherman
Title: Consultant
Company: Atlantic Records Group
Address: 1290 Avenue of the Americas
New York, NY 10104

Email (correspondence): GrayZone@grayzone.com

www.grayzone.com

Telephone: 212 946-1718

Fax: 718 552-3028

You should understand that this letter constitutes notice to you that the sale and/or other distribution of this product is unauthorized. This letter does not constitute a waiver of any right to recover damages incurred by virtue of any such unauthorized activities, and such rights as well as claims for other relief are expressly retained.

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I make this declaration conscientiously, believing it to be true and correct, and in accordance with the laws of each of the countries listed above. I am aware and agree that the contents of this statement may be relied upon against me in any court or arbitration proceeding.

Truthfully,

Dorothy Sherman
Digital Signature: Verisign

Date: 5 DECEMBER 2006

SONG FOR CLAY

<http://www.sideloadcom/cb/track/?id=126741>

<http://www.sideloadcom/cb/track/?id=127231>

<http://www.sideloadcom/cb/track/?id=122666>

UNIFORM

<http://www.sideloadcom/cb/track/?id=106280>
<http://www.sideload.com/cb/track/?id=87050>

WAITING FOR THE 7:18

<http://www.sideloadcom/cb/track/?id=106260>
<http://www.sideload.com/cb/track/?id=87046>
<http://www.sideloadcom/cb/track/?id=116554>
<http://www.sideloadcom/cb/track/?id=110793>

=====
CONFIDENTIALITY NOTICE: This e-mail message, and any attachments thereto, is for the sole use of the intended recipient(s) and may contain legally privileged and/or confidential information. Any unauthorized review, use, disclosure or distribution is strictly prohibited. If you are not the intended recipient, please contact the sender by reply email and permanently delete all copies of the original message.
=====

Douglas Kassem | GrayZone, Inc. Posted on 08 Dec 2006 09:15 AM
=====

=
PLEASE REMOVE THE FOLLOWING LINKS TO UNRELEASED MATERIAL FROM
THE ARTISTS
BLOC PARTY:

=====
Second Notice of Infringement and Declaration

TO:
SIDELOAD.COM
MP3tunes, LLC
5960 Cornerstone Court West
First Floor
San Diego, CA 92121
(submitted at website)

NTT America, Inc.
8005 South Chester Street
Suite 200
Centennial, CO 80112
Phone: +1-800-551-1630
abuse@ntt.net
support@us.ntt.net
vipar@us.ntt.net

REGARDING: <http://www.sideload.com>

IMMEDIATELY REMOVE ALL LINKS, REFERENCES, TORRENTS, TRACKERS,
SEEDERS AND

MP3 FILES ASSOCIATED WITH BLOC PARTY'S UNRELEASED ALBUM "A WEEKEND IN THE CITY":

SONG FOR CLAY

<http://www.sideloadcom/cb/track/?id=126741>
<http://www.sideloadcom/cb/track/?id=127231>
<http://www.sideloadcom/cb/track/?id=122666>

UNIFORM

<http://www.sideloadcom/cb/track/?id=106280>
<http://www.sideload.com/cb/track/?id=87050>

WAITING FOR THE 7:18

<http://www.sideloadcom/cb/track/?id=106260>
<http://www.sideload.com/cb/track/?id=87046>
<http://www.sideloadcom/cb/track/?id=116554>
<http://www.sideloadcom/cb/track/?id=110793>

If you do not comply with this demand immediately, we will seek whatever remedies are available to us under the United States Copyright law, the Lanham Act and any applicable international laws or treaties.

ATLANTIC RECORDS GROUP

I, the undersigned, do solemnly and sincerely declare and CERTIFY UNDER PENALTY OF PERJURY that:

1. I am the owner or an agent authorized to act on behalf of the owner of certain intellectual property rights, said owner being named ATLANTIC RECORDS GROUP ("IP Owner").

2. I have a good faith belief that the materials identified in the addendum attached hereto are not authorized by the above IP Owner, its agent, or the law and therefore infringe the IP Owner's rights according to the laws of the (check all that apply):

United States X
Australia
Brazil
Canada
EUR
France
Germany
Italy
Japan
Netherlands
Russia
United Kingdom

All of the above X

Please act expeditiously to remove or disable access to the material or items claimed to be infringing.

3. I may be contacted at:

Printed Name: Dorothy Sherman
Title: Consultant
Company: Atlantic Records Group
Address: 1290 Avenue of the Americas
New York, NY 10104

Email (correspondence): GrayZone@grayzone.com

www.grayzone.com

Telephone: 212 946-1718

Fax: 718 552-3028

You should understand that this letter constitutes notice to you that the sale and/or other distribution of this product is unauthorized. This letter does not constitute a waiver of any right to recover damages incurred by virtue of any such unauthorized activities, and such rights as well as claims for other relief are expressly retained.

Finally, notwithstanding our use of the required notice form, we believe that sideload.com 's activities and services fall outside the scope of the Digital Millennium Copyright Act ("DMCA"). Our use of this form, as required by law, is meant to facilitate sideload.com 's removal of the infringing product listed above and is not meant to suggest or imply that sideload.com 's activities and services are within the scope of the DMCA.

I make this declaration conscientiously, believing it to be true and correct, and in accordance with the laws of each of the countries listed above. I am aware and agree that the contents of this statement may be relied upon against me in any court or arbitration proceeding.

Truthfully,

Dorothy Sherman
Digital Signature: Verisign

Date: 8 DECEMBER 2006

SONG FOR CLAY

<http://www.sideloadcom/cb/track/?id=126741>

<http://www.sideloadcom/cb/track/?id=127231>
<http://www.sideloadcom/cb/track/?id=122666>

UNIFORM

<http://www.sideloadcom/cb/track/?id=106280>
<http://www.sideload.com/cb/track/?id=87050>

WAITING FOR THE 7:18

<http://www.sideloadcom/cb/track/?id=106260>
<http://www.sideload.com/cb/track/?id=87046>
<http://www.sideloadcom/cb/track/?id=116554>
<http://www.sideloadcom/cb/track/?id=110793>

=====
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EXHIBIT 26

From: Julian Krause [Julian.Krause@mp3tunes.com]
Sent: Thursday, December 27, 2007 8:01 AM
To: Emily Richards
Cc: Michael Robertson; Doug Reese
Subject: Re: sideload takedown notice - 2 of 4

Attachments: takedown_report_2.txt



takedown_report_2
.txt (6 KB)

From the list of 43 URLs which I received, there were 43 unique entries marked as invalid in the database on 12/27/2007. A plain text version of those rows from the database has been attached. A -1 at the end of the row means that it has been marked as removed.

Julian Krause

>>> Emily Richards <emily.richards@mp3tunes.com> 12/26/07 1:42 PM >>>
Takedown notice per my previous email.

~Em

M_Marhoon2000@yahoo.com Posted on 26 Dec 2007 05:20 AM

1-I'm authorized to act on behalf of the owner of an exclusive right that is allegedly infringed

2-Name: MOSTAFA AHMED MARHOON
PO Box. BAH 1805
Address:
147-29 182nd Street Springfield Gardens, NY 11413
Tel: 718-553-8740
E-mail:M_Marhoon2000@yahoo.com

3-Copyrighted work productions music are infringed, will be any personal use in own trailer. must have license to use immediate music.

4-Sharing copyright for production music for trailers movie is not for sale and not for public.

5-Links of the material:

<http://www.sideload.com/cb/track/?id=355971>
<http://www.sideload.com/cb/track/?id=355970>
<http://www.sideload.com/cb/track/?id=315171>
<http://www.sideload.com/cb/track/?id=355918>
<http://www.sideload.com/cb/track/?id=355922>
<http://www.sideload.com/cb/track/?id=355923>
<http://www.sideload.com/cb/track/?id=355924>
<http://www.sideload.com/cb/track/?id=355925>
<http://www.sideload.com/cb/track/?id=355926>

<http://www.sideload.com/cb/track/?id=355927>
<http://www.sideload.com/cb/track/?id=355928>
<http://www.sideload.com/cb/track/?id=355929>
<http://www.sideload.com/cb/track/?id=355930>
<http://www.sideload.com/cb/track/?id=355933>
<http://www.sideload.com/cb/track/?id=355934>
<http://www.sideload.com/cb/track/?id=355935>
<http://www.sideload.com/cb/track/?id=355936>
<http://www.sideload.com/cb/track/?id=355937>
<http://www.sideload.com/cb/track/?id=355938>
<http://www.sideload.com/cb/track/?id=355939>
<http://www.sideload.com/cb/track/?id=355941>
<http://www.sideload.com/cb/track/?id=355942>
<http://www.sideload.com/cb/track/?id=355944>
<http://www.sideload.com/cb/track/?id=355945>
<http://www.sideload.com/cb/track/?id=355946>
<http://www.sideload.com/cb/track/?id=355947>
<http://www.sideload.com/cb/track/?id=355952>
<http://www.sideload.com/cb/track/?id=355953>
<http://www.sideload.com/cb/track/?id=355954>
<http://www.sideload.com/cb/track/?id=355955>
<http://www.sideload.com/cb/track/?id=355956>
<http://www.sideload.com/cb/track/?id=355957>
<http://www.sideload.com/cb/track/?id=355958>
<http://www.sideload.com/cb/track/?id=355960>
<http://www.sideload.com/cb/track/?id=355961>
<http://www.sideload.com/cb/track/?id=355962>
<http://www.sideload.com/cb/track/?id=355963>
<http://www.sideload.com/cb/track/?id=355964>
<http://www.sideload.com/cb/track/?id=355965>
<http://www.sideload.com/cb/track/?id=355966>
<http://www.sideload.com/cb/track/?id=355967>
<http://www.sideload.com/cb/track/?id=355968>
<http://www.sideload.com/cb/track/?id=355969>

6-I good faith belief that use of the material in the manner complained of is not authorized by the copyright owner, its agents, or the law.

7-the information in the notice is accurate, under penalty of perjury.

To contact:

If you are contacting us from the United States:

310.581.9935 Voice 1
310.230.1750 Voice 2
310.581.0720 Fax

E-mail:info@immediatemusic.com

If you are contacting us from the United Kingdom:

05601 465 994 (local call rate)
E-mail:info.uk@immediatemusic.com

official site:
<http://www.immediatemusic.com/>

Ticket Details

=====

Ticket ID: ZCS-424687

Department: Technical Support

Priority: New Ticket

Status: Replied

takedown_report_2.txt

355971
<http://reich.morpheus.net/listen/Immediate%20Music%20-%20Themes%20For%20Orchestra%20And%20Choir/86%20-%20Worlds%20Apart.mp3> -1

355970
<http://reich.morpheus.net/listen/Immediate%20Music%20-%20Themes%20For%20Orchestra%20And%20Choir/85%20-%20Witch%20Hunt.mp3> -1

315171
<http://somethingilearned.com.nyud.net:8080/strikeunder/Strike%20Under%20-%20ImmediateAction.mp3> -1

355918
[http://reich.morpheus.net/listen/Immediate%20Music%20-%20Themes%20For%20Orchestra%20And%20Choir/02%20-%20All%20Hell%20Break%27s%20Loose%20\(Choir\).mp3](http://reich.morpheus.net/listen/Immediate%20Music%20-%20Themes%20For%20Orchestra%20And%20Choir/02%20-%20All%20Hell%20Break%27s%20Loose%20(Choir).mp3) -1

355922
[http://reich.morpheus.net/listen/Immediate%20Music%20-%20Themes%20For%20Orchestra%20And%20Choir/06%20-%20Avenger%20\(Choir\).mp3](http://reich.morpheus.net/listen/Immediate%20Music%20-%20Themes%20For%20Orchestra%20And%20Choir/06%20-%20Avenger%20(Choir).mp3) -1

355923
[http://reich.morpheus.net/listen/Immediate%20Music%20-%20Themes%20For%20Orchestra%20And%20Choir/08%20-%20Birth%20Of%20A%20Nation%20\(Choir\).mp3](http://reich.morpheus.net/listen/Immediate%20Music%20-%20Themes%20For%20Orchestra%20And%20Choir/08%20-%20Birth%20Of%20A%20Nation%20(Choir).mp3) -1

355924
[http://reich.morpheus.net/listen/Immediate%20Music%20-%20Themes%20For%20Orchestra%20And%20Choir/10%20-%20Blasphemy%202.0%20\(Choir\).mp3](http://reich.morpheus.net/listen/Immediate%20Music%20-%20Themes%20For%20Orchestra%20And%20Choir/10%20-%20Blasphemy%202.0%20(Choir).mp3) -1

355925
[http://reich.morpheus.net/listen/Immediate%20Music%20-%20Themes%20For%20Orchestra%20And%20Choir/12%20-%20Coronation%20\(Choir\).mp3](http://reich.morpheus.net/listen/Immediate%20Music%20-%20Themes%20For%20Orchestra%20And%20Choir/12%20-%20Coronation%20(Choir).mp3) -1

355926
[http://reich.morpheus.net/listen/Immediate%20Music%20-%20Themes%20For%20Orchestra%20And%20Choir/14%20-%20Crusade%20\(Choir\).mp3](http://reich.morpheus.net/listen/Immediate%20Music%20-%20Themes%20For%20Orchestra%20And%20Choir/14%20-%20Crusade%20(Choir).mp3) -1

355927
[http://reich.morpheus.net/listen/Immediate%20Music%20-%20Themes%20For%20Orchestra%20And%20Choir/16%20-%20Euphrates%20\(Choir\).mp3](http://reich.morpheus.net/listen/Immediate%20Music%20-%20Themes%20For%20Orchestra%20And%20Choir/16%20-%20Euphrates%20(Choir).mp3) -1

355928
[http://reich.morpheus.net/listen/Immediate%20Music%20-%20Themes%20For%20Orchestra%20And%20Choir/18%20-%20Fahrenheit%20\(Choir\).mp3](http://reich.morpheus.net/listen/Immediate%20Music%20-%20Themes%20For%20Orchestra%20And%20Choir/18%20-%20Fahrenheit%20(Choir).mp3) -1

355929
[http://reich.morpheus.net/listen/Immediate%20Music%20-%20Themes%20For%20Orchestra%20And%20Choir/20%20-%20Final%20Omen%202.0%20\(Choir\).mp3](http://reich.morpheus.net/listen/Immediate%20Music%20-%20Themes%20For%20Orchestra%20And%20Choir/20%20-%20Final%20Omen%202.0%20(Choir).mp3) -1

355930
<http://reich.morpheus.net/listen/Immediate%20Music%20-%20Themes%20For%20Orchestra%20And%20Choir/22%20-%20Hidden%20Fortress.mp3> -1

355933
[http://reich.morpheus.net/listen/Immediate%20Music%20-%20Themes%20For%20Orchestra%20And%20Choir/23%20-%20Hidden%20Fortress%20\(Choir\).mp3](http://reich.morpheus.net/listen/Immediate%20Music%20-%20Themes%20For%20Orchestra%20And%20Choir/23%20-%20Hidden%20Fortress%20(Choir).mp3) -1

355934
[http://reich.morpheus.net/listen/Immediate%20Music%20-%20Themes%20For%20Orchestra%20And%20Choir/25%20-%20Holy%20\(Choir\).mp3](http://reich.morpheus.net/listen/Immediate%20Music%20-%20Themes%20For%20Orchestra%20And%20Choir/25%20-%20Holy%20(Choir).mp3) -1

355935
[http://reich.morpheus.net/listen/Immediate%20Music%20-%20Themes%20For%20Orchestra%20And%20Choir/27%20-%20Hymn%20\(Choir\).mp3](http://reich.morpheus.net/listen/Immediate%20Music%20-%20Themes%20For%20Orchestra%20And%20Choir/27%20-%20Hymn%20(Choir).mp3) -1

355936
[http://reich.morpheus.net/listen/Immediate%20Music%20-%20Themes%20For%20Orchestra%20And%20Choir/29%20-%20Imperativa%20\(Choir\).mp3](http://reich.morpheus.net/listen/Immediate%20Music%20-%20Themes%20For%20Orchestra%20And%20Choir/29%20-%20Imperativa%20(Choir).mp3) -1

355937
<http://reich.morpheus.net/listen/Immediate%20Music%20-%20Themes%20For%20Orchestra%20And%20Choir/30%20-%20Judgement%20Day.mp3> -1

355938
[http://reich.morpheus.net/listen/Immediate%20Music%20-%20Themes%20For%20Orchestra%20And%20Choir/32%20-%20King%20For%20A%20Day%20\(Choir\).mp3](http://reich.morpheus.net/listen/Immediate%20Music%20-%20Themes%20For%20Orchestra%20And%20Choir/32%20-%20King%20For%20A%20Day%20(Choir).mp3) -1

355939
<http://reich.morpheus.net/listen/Immediate%20Music%20-%20Themes%20For%20Orchestra%20And%20Choir/33%20-%20Lacrimosa.mp3> -1

355941
[http://reich.morpheus.net/listen/Immediate%20Music%20-%20Themes%20For%20Orchestra%20And%20Choir/36%20-%20League%20Of%20Justice%20\(Choir\).mp3](http://reich.morpheus.net/listen/Immediate%20Music%20-%20Themes%20For%20Orchestra%20And%20Choir/36%20-%20League%20Of%20Justice%20(Choir).mp3) -1

takedown_report_2.txt

355942
[http://reich.morpheus.net/listen/Immediate%20Music%20-%20Themes%20For%20Orchestra%20And%20Choir/38%20-%20Liberation!%20\(Choir\).mp3](http://reich.morpheus.net/listen/Immediate%20Music%20-%20Themes%20For%20Orchestra%20And%20Choir/38%20-%20Liberation!%20(Choir).mp3) -1

355944
[http://reich.morpheus.net/listen/Immediate%20Music%20-%20Themes%20For%20Orchestra%20And%20Choir/41%20-%20Love%20&%20War%20\(Choir\).mp3](http://reich.morpheus.net/listen/Immediate%20Music%20-%20Themes%20For%20Orchestra%20And%20Choir/41%20-%20Love%20&%20War%20(Choir).mp3) -1

355945
<http://reich.morpheus.net/listen/Immediate%20Music%20-%20Themes%20For%20Orchestra%20And%20Choir/42%20-%20Mercutio.mp3> -1

355946
<http://reich.morpheus.net/listen/Immediate%20Music%20-%20Themes%20For%20Orchestra%20And%20Choir/43%20-%20Monolith.mp3> -1

355947
<http://reich.morpheus.net/listen/Immediate%20Music%20-%20Themes%20For%20Orchestra%20And%20Choir/44%20-%20Off%20To%20Neverland.mp3> -1

355952
<http://reich.morpheus.net/listen/Immediate%20Music%20-%20Themes%20For%20Orchestra%20And%20Choir/56%20-%20Prelude.mp3> -1

355953
[http://reich.morpheus.net/listen/Immediate%20Music%20-%20Themes%20For%20Orchestra%20And%20Choir/57%20-%20Prelude%20\(Choir\).mp3](http://reich.morpheus.net/listen/Immediate%20Music%20-%20Themes%20For%20Orchestra%20And%20Choir/57%20-%20Prelude%20(Choir).mp3) -1

355954
<http://reich.morpheus.net/listen/Immediate%20Music%20-%20Themes%20For%20Orchestra%20And%20Choir/58%20-%20Proud%20Nation.mp3> -1

355955
[http://reich.morpheus.net/listen/Immediate%20Music%20-%20Themes%20For%20Orchestra%20And%20Choir/60%20-%20Redemption%20\(Choir\).mp3](http://reich.morpheus.net/listen/Immediate%20Music%20-%20Themes%20For%20Orchestra%20And%20Choir/60%20-%20Redemption%20(Choir).mp3) -1

355956
[http://reich.morpheus.net/listen/Immediate%20Music%20-%20Themes%20For%20Orchestra%20And%20Choir/62%20-%20Redrum%203.0%20\(Choir\).mp3](http://reich.morpheus.net/listen/Immediate%20Music%20-%20Themes%20For%20Orchestra%20And%20Choir/62%20-%20Redrum%203.0%20(Choir).mp3) -1

355957
<http://reich.morpheus.net/listen/Immediate%20Music%20-%20Themes%20For%20Orchestra%20And%20Choir/63%20-%20Rerurn%20To%20Willowbrook.mp3> -1

355958
<http://reich.morpheus.net/listen/Immediate%20Music%20-%20Themes%20For%20Orchestra%20And%20Choir/64%20-%20Salvation.mp3> -1

355960
[http://reich.morpheus.net/listen/Immediate%20Music%20-%20Themes%20For%20Orchestra%20And%20Choir/66%20-%20Serenata%20\(Choir\).mp3](http://reich.morpheus.net/listen/Immediate%20Music%20-%20Themes%20For%20Orchestra%20And%20Choir/66%20-%20Serenata%20(Choir).mp3) -1

355961
<http://reich.morpheus.net/listen/Immediate%20Music%20-%20Themes%20For%20Orchestra%20And%20Choir/71%20-%20Spiritus%20Elektros.mp3> -1

355962
<http://reich.morpheus.net/listen/Immediate%20Music%20-%20Themes%20For%20Orchestra%20And%20Choir/72%20-%20Sprit%20Of%20Adventure.mp3> -1

355963
[http://reich.morpheus.net/listen/Immediate%20Music%20-%20Themes%20For%20Orchestra%20And%20Choir/74%20-%20The%20Black%20Legend%20\(Choir\).mp3](http://reich.morpheus.net/listen/Immediate%20Music%20-%20Themes%20For%20Orchestra%20And%20Choir/74%20-%20The%20Black%20Legend%20(Choir).mp3) -1

355964
[http://reich.morpheus.net/listen/Immediate%20Music%20-%20Themes%20For%20Orchestra%20And%20Choir/76%20-%20The%20Gathering%20\(Choir\).mp3](http://reich.morpheus.net/listen/Immediate%20Music%20-%20Themes%20For%20Orchestra%20And%20Choir/76%20-%20The%20Gathering%20(Choir).mp3) -1

355965
<http://reich.morpheus.net/listen/Immediate%20Music%20-%20Themes%20For%20Orchestra%20And%20Choir/77%20-%20The%20Magician%27s%20Apprentice.mp3> -1

355966
<http://reich.morpheus.net/listen/Immediate%20Music%20-%20Themes%20For%20Orchestra%20And%20Choir/78%20-%20The%20Promise%20Land.mp3> -1

355967
[http://reich.morpheus.net/listen/Immediate%20Music%20-%20Themes%20For%20Orchestra%20And%20Choir/80%20-%20The%20Quest%20\(Choir\).mp3](http://reich.morpheus.net/listen/Immediate%20Music%20-%20Themes%20For%20Orchestra%20And%20Choir/80%20-%20The%20Quest%20(Choir).mp3) -1

355968
[http://reich.morpheus.net/listen/Immediate%20Music%20-%20Themes%20For%20Orchestra%20And%20Choir/82%20-%20Ultimatum%20\(Choir\).mp3](http://reich.morpheus.net/listen/Immediate%20Music%20-%20Themes%20For%20Orchestra%20And%20Choir/82%20-%20Ultimatum%20(Choir).mp3) -1

takedown_report_2.txt

355969

[http://reich.morpheus.net/listen/Immediate%20Music%20-%20Themes%20For%20orchestra%20And%20Choir/84%20-%20Voyager%20\(Choir\).mp3](http://reich.morpheus.net/listen/Immediate%20Music%20-%20Themes%20For%20orchestra%20And%20Choir/84%20-%20Voyager%20(Choir).mp3) -1

EXHIBIT 27

From: Julian Krause [Julian.Krause@mp3tunes.com]
Sent: Thursday, December 27, 2007 8:07 AM
To: Emily Richards
Cc: Michael Robertson; Doug Reese
Subject: Re: sideload takedown notice - 3 of 4

Attachments: takedown_report_3.txt



takedown_report_3
.txt (5 KB)

From the list of 80 URLs which I received, there were 80 unique entries marked as invalid in the database on 12/27/2007. A plain text version of those rows from the database has been attached. A -1 at the end of the row means that it has been marked as removed.

Julian Krause

>>> Emily Richards <emily.richards@mp3tunes.com> 12/26/07 1:43 PM >>>
Takedown notice per my previous email.

-Em

M_Marhoon2000@yahoo.com Posted on 26 Dec 2007 05:20 AM

1-I'm authorized to act on behalf of the owner of an exclusive right that is allegedly infringed

2-Name: MOSTAFA AHMED MARHOON
PO Box. BAH 1805
Address:
147-29 182nd Street Springfield Gardens, NY 11413
Tel: 718-553-8740
E-mail:M_Marhoon2000@yahoo.com

3-Copied work productions music are infringed, will be any personal use in own trailer. must have license to use two steps from hell.

4-Sharing copyright for production music for trailers movie is not for sale and not for public.

5-Links of the material:

<http://www.sideload.com/cb/track/?id=370934>
<http://www.sideload.com/cb/track/?id=370933>
<http://www.sideload.com/cb/track/?id=370930>
<http://www.sideload.com/cb/track/?id=370929>
<http://www.sideload.com/cb/track/?id=370868>
<http://www.sideload.com/cb/track/?id=370928>
<http://www.sideload.com/cb/track/?id=370867>
<http://www.sideload.com/cb/track/?id=370927>
<http://www.sideload.com/cb/track/?id=370926>

PORTION REDACTED

http://www.sideload.com/cb/track/?id=370925
http://www.sideload.com/cb/track/?id=370866
http://www.sideload.com/cb/track/?id=370924
http://www.sideload.com/cb/track/?id=370923
http://www.sideload.com/cb/track/?id=370922
http://www.sideload.com/cb/track/?id=370921
http://www.sideload.com/cb/track/?id=370920
http://www.sideload.com/cb/track/?id=370919
http://www.sideload.com/cb/track/?id=370918
http://www.sideload.com/cb/track/?id=370917
http://www.sideload.com/cb/track/?id=370916
http://www.sideload.com/cb/track/?id=370915
http://www.sideload.com/cb/track/?id=370914
http://www.sideload.com/cb/track/?id=370865
http://www.sideload.com/cb/track/?id=370913
http://www.sideload.com/cb/track/?id=370912
http://www.sideload.com/cb/track/?id=370911
http://www.sideload.com/cb/track/?id=370910
http://www.sideload.com/cb/track/?id=370909
http://www.sideload.com/cb/track/?id=370908
http://www.sideload.com/cb/track/?id=370864
http://www.sideload.com/cb/track/?id=370863
http://www.sideload.com/cb/track/?id=370862
http://www.sideload.com/cb/track/?id=370907
http://www.sideload.com/cb/track/?id=370861
http://www.sideload.com/cb/track/?id=370906
http://www.sideload.com/cb/track/?id=370860
http://www.sideload.com/cb/track/?id=370859
http://www.sideload.com/cb/track/?id=370858
http://www.sideload.com/cb/track/?id=370905
http://www.sideload.com/cb/track/?id=370857
http://www.sideload.com/cb/track/?id=370903
http://www.sideload.com/cb/track/?id=370856
http://www.sideload.com/cb/track/?id=370902
http://www.sideload.com/cb/track/?id=370854
http://www.sideload.com/cb/track/?id=370904
http://www.sideload.com/cb/track/?id=370855
http://www.sideload.com/cb/track/?id=370853
http://www.sideload.com/cb/track/?id=370901
http://www.sideload.com/cb/track/?id=370852
http://www.sideload.com/cb/track/?id=370900
http://www.sideload.com/cb/track/?id=370851
http://www.sideload.com/cb/track/?id=370899
http://www.sideload.com/cb/track/?id=370850
http://www.sideload.com/cb/track/?id=370898
http://www.sideload.com/cb/track/?id=370897
http://www.sideload.com/cb/track/?id=370896
http://www.sideload.com/cb/track/?id=370895
http://www.sideload.com/cb/track/?id=370849
http://www.sideload.com/cb/track/?id=370894
http://www.sideload.com/cb/track/?id=370847
http://www.sideload.com/cb/track/?id=370848

<http://www.sideload.com/cb/track/?id=370893>
<http://www.sideload.com/cb/track/?id=370892>
<http://www.sideload.com/cb/track/?id=370891>
<http://www.sideload.com/cb/track/?id=370890>
<http://www.sideload.com/cb/track/?id=370889>
<http://www.sideload.com/cb/track/?id=370888>
<http://www.sideload.com/cb/track/?id=370887>
<http://www.sideload.com/cb/track/?id=370886>
<http://www.sideload.com/cb/track/?id=370879>
<http://www.sideload.com/cb/track/?id=370877>
<http://www.sideload.com/cb/track/?id=370876>
<http://www.sideload.com/cb/track/?id=370875>
<http://www.sideload.com/cb/track/?id=370874>
<http://www.sideload.com/cb/track/?id=370873>
<http://www.sideload.com/cb/track/?id=370872>
<http://www.sideload.com/cb/track/?id=370871>
<http://www.sideload.com/cb/track/?id=370870>
<http://www.sideload.com/cb/track/?id=370846>
<http://www.sideload.com/cb/track/?id=355985>

6-I good faith belief that use of the material in the manner complained of is not authorized by the copyright owner, its agents, or the law.

7-the information in the notice is accurate, under penalty of perjury.

To contact:

Licensing info:

Claudia Phoenix - Phone: 310-985-1126
Fax: 310-496-0658

Management:

Alec Phoenix - Phone 310-963-0659
E-mail:twostepsfromhell@mac.com
E-mail:alec.phoenix@gmail.com

official site:

<http://www.twostepsfromhell.com/>

Ticket Details

=====

Ticket ID: BQJ-430728

Department: Technical Support

Priority: New Ticket

Status: Replied

takedown_report_3.txt

370934	http://rapidshare.com/files/75992933/1000_Ships..Underworld.mp3	-1	
370933	http://rapidshare.com/files/75992934/1000_Ships..Underworld_NC.mp3		-1
370930	http://rapidshare.com/files/75992937/Black_Assassin.mp3	-1	
370929	http://rapidshare.com/files/75992938/Black_Assassin_NC_.mp3		-1
370868	http://rapidshare.com/files/75987899/Blade_Fighter.mp3	-1	
370928	http://rapidshare.com/files/75992939/Blade_Fighter_NC.mp3		-1
370867	http://rapidshare.com/files/75987900/Blast_the_Gates.mp3		-1
370927	http://rapidshare.com/files/75992940/Blast_the_Gates_NC_.mp3		-1
370926	http://rapidshare.com/files/75993685/Bleeding.mp3	-1	
370925	http://rapidshare.com/files/75993686/Bleeding_NC.mp3		-1
370866	http://rapidshare.com/files/75987901/Breath_Of_Ran_Gor.mp3		-1
370924	http://rapidshare.com/files/75993692/Cavaliere.mp3	-1	
370923	http://rapidshare.com/files/75993693/Cavaliere_NC.mp3		-1
370922	http://rapidshare.com/files/75993696/Chariots_of_Blood_Wi_.mp3		-1
370921	http://rapidshare.com/files/75994397/Chopperhead_NC_.mp3		-1
370920	http://rapidshare.com/files/75994398/Conquerors.mp3	-1	
370919	http://rapidshare.com/files/75994399/Conquerors_NC.mp3		-1
370918	http://rapidshare.com/files/75994400/Coup_D_Etat.mp3		-1
370917	http://rapidshare.com/files/75994401/Deep_Voyage.mp3		-1
370916	http://rapidshare.com/files/75994402/Demon_Rider.mp3		-1
370915	http://rapidshare.com/files/75994403/Demon_Rider_NC.mp3		-1
370914	http://rapidshare.com/files/75994404/Diplomatic_Immunity.mp3		-1
370865	http://rapidshare.com/files/75987902/Dragon_Rider.mp3		-1
370913	http://rapidshare.com/files/75994405/Dragon_Rider_Beat_Only_.mp3		-1
370912	http://rapidshare.com/files/75995136/Dynasty.mp3		-1
370911	http://rapidshare.com/files/75995137/Dynasty_NC.mp3		-1
370910	http://rapidshare.com/files/75995138/Dynasty_Solo_Vocal.mp3		-1
370909	http://rapidshare.com/files/75995139/Elementum.mp3		-1
370908	http://rapidshare.com/files/75995140/Elementum_NC_.mp3		-1
370864	http://rapidshare.com/files/75987903/Epilogue.mp3		-1
370863	http://rapidshare.com/files/75987904/False_Flag_Op.mp3		-1
370862	http://rapidshare.com/files/75987906/Fight_The_Darkness.mp3		-1
370907	http://rapidshare.com/files/75995143/Fight_The_Darkness_NC.mp3		-1
370861	http://rapidshare.com/files/75987907/Flameheart.mp3		-1
370906	http://rapidshare.com/files/75995144/Flameheart_NC_.mp3		-1
370860	http://rapidshare.com/files/75987908/Glory_Honor.mp3		-1
370859	http://rapidshare.com/files/75987909/Heaven_Earth.mp3		-1
370858	http://rapidshare.com/files/75988643/Hero.mp3		-1
370905	http://rapidshare.com/files/75995145/Hero_NC.mp3		-1
370857	http://rapidshare.com/files/75988644/House_of_Fire.mp3		-1
370903	http://rapidshare.com/files/75995146/House_of_Fire_NC.mp3		-1
370856	http://rapidshare.com/files/75988645/Instruments_of_War.mp3		-1
370902	http://rapidshare.com/files/75995910/Instruments_of_war_NC_.mp3		-1
370854	http://rapidshare.com/files/75988648/King_s_Legion.mp3		-1
370904	http://rapidshare.com/files/75995911/King_s_Legion_NC_.mp3		-1
370855	http://rapidshare.com/files/75988646/Kingdom_Skies.mp3		-1
370853	http://rapidshare.com/files/75988649/Love_Loss.mp3		-1
370901	http://rapidshare.com/files/75995912/Love_Loss_No_Synth_.mp3		-1
370852	http://rapidshare.com/files/75988650/Magika.mp3		-1
370900	http://rapidshare.com/files/75995913/Magika_NC_.mp3		-1
370851	http://rapidshare.com/files/75988651/Never_Winter.mp3		-1
370899	http://rapidshare.com/files/75995914/Never_Winter_NC.mp3		-1
370850	http://rapidshare.com/files/75988652/Ocean.mp3		-1
370898	http://rapidshare.com/files/75995915/Ocean_NC.mp3		-1
370897	http://rapidshare.com/files/75995916/One_Against_All.mp3		-1
370896	http://rapidshare.com/files/75995917/One_Against_All_NC.mp3		-1
370895	http://rapidshare.com/files/75995918/Pax.mp3		-1
370849	http://rapidshare.com/files/75988653/Procession.mp3		-1
370894	http://rapidshare.com/files/75996546/Procession_No_Drums_.mp3		-1
370847	http://rapidshare.com/files/75988872/Racketeers.mp3		-1
370848	http://rapidshare.com/files/75988871/Racketeers_Rock_.mp3		-1
370893	http://rapidshare.com/files/75996547/Red_Army.mp3		-1
370892	http://rapidshare.com/files/75996548/Red_Army_NC_.mp3		-1

takedown_report_3.txt

370891	http://rapidshare.com/files/75996549/Sentius.mp3	-1
370890	http://rapidshare.com/files/75996551/Sentius_NC.mp3	-1
370899	http://rapidshare.com/files/75996552/Sentius_Remix.mp3	-1
370888	http://rapidshare.com/files/75996553/Sentius_Remix_NC.mp3	-1
370887	http://rapidshare.com/files/75996554/Spirit_of_Champions.mp3	-1
370886	http://rapidshare.com/files/75996556/Spirit_of_Champions_NC.mp3	-1
370879	http://rapidshare.com/files/75997282/The_Vendetta_Conspiracy.mp3	-1
370877	http://rapidshare.com/files/75997284/Thermopolis_NC.mp3	-1
370876	http://rapidshare.com/files/75997285/Timebomb.mp3	-1
370875	http://rapidshare.com/files/75997286/Timebomb_Beat_Only_.mp3	-1
370874	http://rapidshare.com/files/75997867/Timebomb_NC_.mp3	-1
370873	http://rapidshare.com/files/75997868/Tyrianis.mp3	-1
370872	http://rapidshare.com/files/75997869/Tyrianis_NC_.mp3	-1
370871	http://rapidshare.com/files/75997870/Web_of_Lies.mp3	-1
370870	http://rapidshare.com/files/75997871/Web_of_Lies_NC_.mp3	-1
370846	http://rapidshare.com/files/75988873/zen_killer.mp3	-1
355985	http://www.twostepsfromhell.com/2SFHwebcontent/mp3/Nemesis-montage.mp3	-1

EXHIBIT 28

From: Julian Krause [Julian.Krause@mp3tunes.com]
Sent: Thursday, December 27, 2007 8:12 AM
To: Emily Richards
Cc: Michael Robertson; Doug Reese
Subject: Re: sideload takedown notice - 4 of 4

Attachments: takedown_report_4.txt



takedown_report_4
.txt (3 KB)

From the list of 30 URLs which I received, there were 30 unique entries marked as invalid in the database on 12/27/2007. A plain text version of those rows from the database has been attached. A -1 at the end of the row means that it has been marked as removed.

Julian Krause

>>> Emily Richards <emily.richards@mp3tunes.com> 12/26/07 3:03 PM >>>
per my previous email.

~emily

M_Marhoon2000@yahoo.com Posted on 26 Dec 2007 05:20 AM

1-I'm authorized to act on behalf of the owner of an exclusive right that is allegedly infringed

2-Name: MOSTAFA AHMED MARHOON
PO Box. BAH 1805
Address:
147-29 182nd Street Springfield Gardens, NY 11413
Tel: 718-553-8740
E-mail:M_Marhoon2000@yahoo.com

3-Copyrighted work productions music are infringed, will be any personal use in own trailer. must have license to use EpicScore music.

4-Sharing copyright for production music for trailers movie is not for sale and not for public.

5-Links of the material:

<http://www.sideload.com/cb/track/?id=371758>
<http://www.sideload.com/cb/track/?id=371757>
<http://www.sideload.com/cb/track/?id=371752>
<http://www.sideload.com/cb/track/?id=371751>
<http://www.sideload.com/cb/track/?id=371767>
<http://www.sideload.com/cb/track/?id=371766>
<http://www.sideload.com/cb/track/?id=371779>
<http://www.sideload.com/cb/track/?id=371778>
<http://www.sideload.com/cb/track/?id=371749>

PORTION REDACTED

<http://www.sideload.com/cb/track/?id=371748>
<http://www.sideload.com/cb/track/?id=371770>
<http://www.sideload.com/cb/track/?id=371769>
<http://www.sideload.com/cb/track/?id=371764>
<http://www.sideload.com/cb/track/?id=371763>
<http://www.sideload.com/cb/track/?id=371743>
<http://www.sideload.com/cb/track/?id=371742>
<http://www.sideload.com/cb/track/?id=371761>
<http://www.sideload.com/cb/track/?id=371760>
<http://www.sideload.com/cb/track/?id=371740>
<http://www.sideload.com/cb/track/?id=371739>
<http://www.sideload.com/cb/track/?id=371746>
<http://www.sideload.com/cb/track/?id=371745>
<http://www.sideload.com/cb/track/?id=371737>
<http://www.sideload.com/cb/track/?id=371736>
<http://www.sideload.com/cb/track/?id=371755>
<http://www.sideload.com/cb/track/?id=371754>
<http://www.sideload.com/cb/track/?id=371773>
<http://www.sideload.com/cb/track/?id=371772>
<http://www.sideload.com/cb/track/?id=371776>
<http://www.sideload.com/cb/track/?id=371775>

6-I good faith belief that use of the material in the manner complained of is not authorized by the copyright owner, its agents, or the law.

7-the information in the notice is accurate, under penalty of perjury.

To contact:

official site:

<http://www.epicscore.com/> or <http://www.apmmusic.com/>

Ticket Details

=====

Ticket ID: APW-467393

Department: Technical Support

Priority: New Ticket

Status: Replied

takedown_report_4.txt

371758 http://rapidshare.com/files/77119925/Epic_Score_-_23_-_Breached_Airlock_A_.mp3 -1
 371757 http://rapidshare.com/files/77119926/Epic_Score_-_24_-_Breached_Airlock_B_.mp3 -1
 371752 http://rapidshare.com/files/77119931/Epic_Score_-_29_-_Caught_in_a_Lie_A_.mp3 -1
 371751 http://rapidshare.com/files/77119932/Epic_Score_-_30_-_Caught_in_a_Lie_B_.mp3 -1
 371767 http://rapidshare.com/files/77119698/Epic_Score_-_14_-_Damsel_s_Escape_A_.mp3 -1
 371766 http://rapidshare.com/files/77119699/Epic_Score_-_15_-_Damsel_s_Escape_B_.mp3 -1
 371779 http://rapidshare.com/files/77119438/Epic_Score_-_02_-_Divine_Destiny_A_.mp3 -1
 371778 http://rapidshare.com/files/77119439/Epic_Score_-_03_-_Divine_Destiny_B_.mp3 -1
 371749 http://rapidshare.com/files/77120152/Epic_Score_-_32_-_Futile_Flight_A_.mp3 -1
 371748 http://rapidshare.com/files/77120153/Epic_Score_-_33_-_Futile_Flight_B_.mp3 -1
 371770 http://rapidshare.com/files/77119695/Epic_Score_-_11_-_Harrowing_A_.mp3 -1
 371769 http://rapidshare.com/files/77119696/Epic_Score_-_12_-_Harrowing_B_.mp3 -1
 371764 http://rapidshare.com/files/77119701/Epic_Score_-_17_-_New_Evil_A_.mp3 -1
 371763 http://rapidshare.com/files/77119702/Epic_Score_-_18_-_New_Evil_B_.mp3 -1
 371743 http://rapidshare.com/files/77120158/Epic_Score_-_38_-_Outflanked_A_.mp3 -1
 371742 http://rapidshare.com/files/77120159/Epic_Score_-_39_-_Outflanked_B_.mp3 -1
 371761 http://rapidshare.com/files/77119704/Epic_Score_-_20_-_Pound_of_Flesh_A_.mp3 -1
 371760 http://rapidshare.com/files/77119923/Epic_Score_-_21_-_Pound_of_Flesh_B_.mp3 -1
 371740 http://rapidshare.com/files/77120277/Epic_Score_-_41_-_Queen_s_Ransom_A_.mp3 -1
 371739 http://rapidshare.com/files/77120278/Epic_Score_-_42_-_Queen_s_Ransom_B_.mp3 -1
 371746 http://rapidshare.com/files/77120155/Epic_Score_-_35_-_Sneak_Attack_A_.mp3 -1
 371745 http://rapidshare.com/files/77120156/Epic_Score_-_36_-_Sneak_Attack_B_.mp3 -1
 371737 http://rapidshare.com/files/77120281/Epic_Score_-_44_-_Stand_Tall_A_.mp3 -1
 371736 http://rapidshare.com/files/77120282/Epic_Score_-_45_-_Stand_Tall_B_.mp3 -1
 371755 http://rapidshare.com/files/77119928/Epic_Score_-_26_-_Target_Acquisition_A_.mp3 -1
 371754 http://rapidshare.com/files/77119929/Epic_Score_-_27_-_Target_Acquisition_B_.mp3 -1
 371773 http://rapidshare.com/files/77119445/Epic_Score_-_08_-_The_Righteous_A_.mp3 -1
 371772 http://rapidshare.com/files/77119446/Epic_Score_-_09_-_The_Righteous_B_.mp3 -1
 371776 http://rapidshare.com/files/77119441/Epic_Score_-_05_-_Wrongful_Hanging_A_.mp3 -1
 371775 http://rapidshare.com/files/77119442/Epic_Score_-_06_-_Wrongful_Hanging_B_.mp3 -1

takedown_report_4.txt

371758 http://rapidshare.com/files/77119925/Epic_Score_-_23_-_Breached_Airlock_A_.mp3 -1
 371757 http://rapidshare.com/files/77119926/Epic_Score_-_24_-_Breached_Airlock_B_.mp3 -1
 371752 http://rapidshare.com/files/77119931/Epic_Score_-_29_-_Caught_in_a_Lie_A_.mp3 -1
 371751 http://rapidshare.com/files/77119932/Epic_Score_-_30_-_Caught_in_a_Lie_B_.mp3 -1
 371767 http://rapidshare.com/files/77119698/Epic_Score_-_14_-_Damsel_s_Escape_A_.mp3 -1
 371766 http://rapidshare.com/files/77119699/Epic_Score_-_15_-_Damsel_s_Escape_B_.mp3 -1
 371779 http://rapidshare.com/files/77119438/Epic_Score_-_02_-_Divine_Destiny_A_.mp3 -1
 371778 http://rapidshare.com/files/77119439/Epic_Score_-_03_-_Divine_Destiny_B_.mp3 -1
 371749 http://rapidshare.com/files/77120152/Epic_Score_-_32_-_Futile_Flight_A_.mp3 -1
 371748 http://rapidshare.com/files/77120153/Epic_Score_-_33_-_Futile_Flight_B_.mp3 -1
 371770 http://rapidshare.com/files/77119695/Epic_Score_-_11_-_Harrowing_A_.mp3 -1
 371769 http://rapidshare.com/files/77119696/Epic_Score_-_12_-_Harrowing_B_.mp3 -1
 371764 http://rapidshare.com/files/77119701/Epic_Score_-_17_-_New_Evil_A_.mp3 -1
 371763 http://rapidshare.com/files/77119702/Epic_Score_-_18_-_New_Evil_B_.mp3 -1
 371743 http://rapidshare.com/files/77120158/Epic_Score_-_38_-_Outflanked_A_.mp3 -1
 371742 http://rapidshare.com/files/77120159/Epic_Score_-_39_-_Outflanked_B_.mp3 -1
 371761 http://rapidshare.com/files/77119704/Epic_Score_-_20_-_Pound_of_Flesh_A_.mp3 -1
 371760 http://rapidshare.com/files/77119923/Epic_Score_-_21_-_Pound_of_Flesh_B_.mp3 -1
 371740 http://rapidshare.com/files/77120277/Epic_Score_-_41_-_Queen_s_Ransom_A_.mp3 -1
 371739 http://rapidshare.com/files/77120278/Epic_Score_-_42_-_Queen_s_Ransom_B_.mp3 -1
 371746 http://rapidshare.com/files/77120155/Epic_Score_-_35_-_Sneak_Attack_A_.mp3 -1
 371745 http://rapidshare.com/files/77120156/Epic_Score_-_36_-_Sneak_Attack_B_.mp3 -1
 371737 http://rapidshare.com/files/77120281/Epic_Score_-_44_-_Stand_Tall_A_.mp3 -1
 371736 http://rapidshare.com/files/77120282/Epic_Score_-_45_-_Stand_Tall_B_.mp3 -1
 371755 http://rapidshare.com/files/77119928/Epic_Score_-_26_-_Target_Acquisition_A_.mp3 -1
 371754 http://rapidshare.com/files/77119929/Epic_Score_-_27_-_Target_Acquisition_B_.mp3 -1
 371773 http://rapidshare.com/files/77119445/Epic_Score_-_08_-_The_Righteous_A_.mp3 -1
 371772 http://rapidshare.com/files/77119446/Epic_Score_-_09_-_The_Righteous_B_.mp3 -1
 371776 http://rapidshare.com/files/77119441/Epic_Score_-_05_-_Wrongful_Hanging_A_.mp3 -1
 371775 http://rapidshare.com/files/77119442/Epic_Score_-_06_-_Wrongful_Hanging_B_.mp3 -1

EXHIBIT 29

From: Julian Krause [Julian.Krause@mp3tunes.com]
Sent: Thursday, December 27, 2007 7:53 AM
To: Emily Richards
Subject: Re: sideload takedown notice - 1 of 4

Attachments: takedown_report_1.txt



takedown_report_1
.txt (546 B)

From the list of 6 URLs which I received, there were 6 unique entries marked as invalid in the database on 12/27/2007. A plain text version of those rows from the database has been attached. A -1 at the end of the row means that it has been marked as removed.

Julian Krause

>>> Emily Richards <emily.richards@mp3tunes.com> 12/26/07 1:38 PM >>>
Julian -

Will you please remove the links below and confirm such action via email? There are four of these takedown notices (all different) in total.

Thanks,

~Emily

M_Marhoon2000@yahoo.com Posted on 26 Dec 2007 05:15 AM

1-I'm authorized to act on behalf of the owner of an exclusive right that is allegedly infringed

2-Name: MOSTAFA AHMED MARHOON
PO Box. BAH 1805
Address:
147-29 182nd Street Springfield Gardens, NY 11413
Tel: 718-553-8740
E-mail:M_Marhoon2000@yahoo.com

3-Copyrighted work productions music are infringed, will be any personal use in own trailer. must have license to use futureworld music.

4-Sharing copyright for production music for trailers movie is not for sale and not for public.

5-Links of the material:

<http://www.sideload.com/cb/track/?id=370838>
<http://www.sideload.com/cb/track/?id=370842>
<http://www.sideload.com/cb/track/?id=370841>
<http://www.sideload.com/cb/track/?id=370840>
<http://www.sideload.com/cb/track/?id=370839>

PORTION REDACTED

<http://www.sideload.com/cb/track/?id=370843>

6-I good faith belief that use of the material in the manner complained of is not authorized by the copyright owner, its agents, or the law.

7-the information in the notice is accurate, under penalty of perjury.

To contact:

Tel: (818) 957-5775

Fax: (818) 957-5789

Cell: (818) 634-4250

e-mail:

info@futureworldmusic.com

official site:

<http://www.futureworldmusic.com/>

Ticket Details

=====

Ticket ID: MPW-938678

Department: Technical Support

Priority: New Ticket

Status: Replied

takedown_report_1.txt

370838	http://rapidshare.com/files/75985641/08_-_Allegiance_To_The_World.mp3	-1
370842	http://rapidshare.com/files/75986307/11_-_Damnum_Et_Triumphus.mp3	-1
370841	http://rapidshare.com/files/75986308/12_-_Quest_For_Freedom.mp3	-1
370840	http://rapidshare.com/files/75986309/13_-_Rise_Of_The_Hero.mp3	-1
370839	http://rapidshare.com/files/75986311/14_-_Sin_And_Restitution.mp3	-1
370843	http://rapidshare.com/files/75986306/10_-_Welcome_To_Your_Fantasy.mp3	-1

EXHIBIT 30

DREIER ^{LLP}

ATTORNEYS AT LAW

The Gursky Group

Ira S. Sacks Partner
Direct 212 652 3730
isacks@dreierllp.com

September 13, 2007

VIA FEDERAL EXPRESS

Steven B. Fabrizio, Esq.
Jenner & Block LLP
601 Thirteenth Street, NW
Suite 1200 South
Washington, DC 20005-3823

Re: MP3tunes, LLC

Dear Mr. Fabrizio,

We represent MP3tunes, LLC ("MP3tunes"). We write in response to your cease-and-desist letter, dated September 4, 2007 to MP3tunes, regarding your allegations that MP3tunes, through its websites, MP3tunes.com and Sideload.com, and its "Oboe Software Suite" is "copying and storing to its servers, indexing, publicly performing, and making available for download hundreds (if not thousands) of [your] client's copyrighted recordings in violation of the Copyright Act."

While we find your allegations baseless and believe that you failed to comply with the requirements of the Digital Millennium Copyright Act ("DMCA") when notifying our client of its alleged infringement, in an effort to resolve this matter and to fulfill our obligations under the DMCA, MP3tunes has removed the approximately 350 songs you provided with your cease-and-desist letter from availability for sideloading. If you provide another list with additional songs to which EMI and/or its affiliates represent they own the copyrights, MP3tunes will promptly remove those songs from availability for sideloading as well.

EMI needs to understand the function of MP3tunes and sideload.com. MP3tunes plays no role in what songs are designated for sideload.com by users of MP3tunes. None of the songs designated by users for sideloading are physically available on sideload.com. Rather, what is provided is a hyperlink.

Notwithstanding MP3tunes' continued willingness to resolve this matter amicably, your attempt to place the burden on MP3tunes to determine which of the songs on its website

499 Park Avenue New York, New York 10022
Telephone 212 328 6100 Facsimile 212 328 6101
Los Angeles Stamford Albany
www.dreierllp.com

Steven B. Fabrizio, Esq.
 September 13, 2007
 Page 2 of 3

are infringing simply by providing (i) a link to the EMI website which provides a "non-exhaustive further listing of EMI's recording artists" and (ii) a representative list of songs which you demand be disabled, fails to comply with EMI's obligations under the DMCA. What is more, having quickly analyzed the list of songs that you attached to your letter, we believe that your assertion that "EMI has not authorized any of its recordings to be copied, distributed or performed" as is done on sideload.com and that "EMI has a good faith belief that use of the material in the manner complained of is not authorized by EMI, its respective agents or the law" is factually incorrect.

First, your notice is inadequate under the DMCA. Specifically, as you know, the 17 U.S.C. § 512(c)(3)(A) provides that:

To be effective under this subsection, a notification of claimed infringement must be a written communication provided to the designated agent of a service provider that includes substantially the following:

- (i) A physical or electronic signature of a person authorized to act on behalf of the owner of an exclusive right that is allegedly infringed.
- (ii) Identification of the copyrighted work claimed to have been infringed, or, if multiple copyrighted works at a single online site are covered by a single notification, a representative list of such works at that site.
- (iii) Identification of the material that is claimed to be infringing or to be the subject of infringing activity and that is to be removed or access to which is to be disabled, and information reasonably sufficient to permit the service provider to locate the material.
- (iv) Information reasonably sufficient to permit the service provider to contact the complaining party, such as an address, telephone number, and, if available, an electronic mail address at which the complaining party may be contacted.
- (v) A statement that the complaining party has a good faith belief that use of the material in the manner complained of is not authorized by the copyright owner, its agent, or the law.
- (vi) A statement that the information in the notification is accurate, and under penalty of perjury, that the complaining party is authorized to act on behalf of the owner of an exclusive right that is allegedly infringed.

Steven B. Fabrizio, Esq.
September 13, 2007
Page 3 of 3

Thus, while you correctly supplied a representative list of multiple copyrighted works located on a single site in your notification as per 17 U.S.C. § 512(c)(3)(A)(ii), you still must comply with the requirements of § 512(c)(3)(A)(iii) – that is, you must specifically identify the material that is to removed or access to which is to be disabled. A representative list such as the one you have provided is insufficient to comply with 17 U.S.C. § 512(c)(3)(A)(iii).

Moreover, we believe that some of the artists on your list and/or on your website are no longer represented by EMI; and that some songs you listed are freely available for digital download. For example, the first band that is listed in your spreadsheet is "Air". MP3tunes features an "Air" track – "Once Upon A Time" – on the first page of sideload.com. That track is from the popular online music magazine, *Filter*, and is accessed by the URL <http://filter-mag.com/index.php?id=13977&c=6>. We have no reason to believe that the Filter track is anything but lawful.

Similarly, your list also includes the track "Nobody Move, Nobody Get Hurt" by the band "We Are Scientists" from the URL http://media.spin.com//features/band_of_the_day/audio/2005/11/nobody_move_nobody_get_hurt_hi.mp3. *Spin* is a popular online music magazine. All the labels distribute MP3s promotionally. We believe that it is likely that this track is such a promotional distribution and is lawfully available. The same is true for the tracks that you list from the *Paste Store*, which is a store which often distributes promotional tracks provided to them.

Nonetheless, as previously stated, if you send us a list of additional tracks to which EMI and its affiliates own the copyrights, provide information reasonably sufficient to permit our client to locate the material, and accurately represent that the listed tracks are not legally digitally available for copying (along with the remaining required elements of 17 U.S.C. § 512(c)(3)(A)), MP3tunes will disable those songs from sideloading as well.

Please feel free to contact me if you would like to discuss this matter further. This letter is written without prejudice to the rights, claims and/or defenses of MP3tunes or its affiliates, all of which are hereby expressly reserved.

Sincerely,



Ira S. Sacks

ISS/es
cc: Michael Robertson (via email)

EXHIBIT 31

EXHIBIT REMOVED FROM
PUBLIC VERSION
PURSUANT TO
PROTECTIVE ORDER

EXHIBIT 32

EXHIBIT REMOVED FROM
PUBLIC VERSION
PURSUANT TO
PROTECTIVE ORDER

CERTIFICATE OF SERVICE

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

CAPITOL RECORDS, LLC; CAROLINE	)	No. 07 Civ. 9931 (WHP)
RECORDS, INC.; EMI CHRISTIAN)	
MUSIC GROUP INC.; PRIORITY RECORDS)	
LLC; VIRGIN RECORDS AMERICA, INC.;)	
BEECHWOOD MUSIC CORP.;)	
COLGEMS-EMI MUSIC INC.; EMI APRIL)	
MUSIC INC.; EMI BLACKWOOD MUSIC;)	
EMI FULL KEEL MUSIC; EMI GOLDEN)	
TORCH MUSIC CORP.; EMI LONGITUDE)	
MUSIC; EMI VIRGIN MUSIC, INC.;)	
EMI VIRGIN SONGS, INC.,)	
)	
<i>Plaintiffs,</i>)	
)	
V.)	
)	
MP3TUNES, LLC AND MICHAEL)	
ROBERTSON)	
)	
<i>Defendant.</i>)	
)	

CERTIFICATE OF SERVICE

I, Carletta F. Higginson, do hereby certify that on this 18th day of April, 2008 I caused *Declaration of Andrew H. Bart in Support of EMI's Opposition to MP3Tunes' Motion to Dismiss or, in the Alternative, to Transfer to the Southern District of California* to be filed via this Court's Electronic Case Filing System and to be served via overnight mail delivery upon the following individuals and law firm(s):

**Edward M. Cramp, Esq.
DUANE MORRIS LLP
101 West Broadway, Suite 900
San Diego, CA 92101**

**Gregory P. Gulia, Esq.
DUANE MORRIS LLP
1540 Broadway
New York, NY 10036**


Carletta F. Higginson